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SUPREME COURT  
OF THE STATE OF WASHINGTON

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CITY OF ARLINGTON, DWAYNE LANE,  
and SNOHOMISH COUNTY,

Appellants,

vs

CENTRAL PUGET SOUND GROWTH MANAGEMENT  
HEARINGS BOARD, STATE OF WASHINGTON; 1000 FRIENDS  
OF WASHINGTON nka FUTUREWISE; STILLAGUAMISH FLOOD  
CONTROL DISTRICT; PILCHUCK AUDUBON SOCIETY; THE  
DIRECTOR OF THE STATE OF WASHINGTON DEPARTMENT  
OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT;  
and AGRICULTURE FOR TOMORROW,

Respondents.

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RESPONSE TO PETITIONS FOR REVIEW BY THE SUPREME  
COURT OF CITY OF ARLINGTON AND DWAYNE LANE

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BAILEY, DUSKIN, PEIFFLE & CANFIELD, P.S.

By: Steven J. Peiffle, WSBA #14704

22422 State Route 9 NE, Arlington WA 98223

(360) 435-2168

Attorney for Appellant City of Arlington

COGDILL NICHOLS REIN WARTELLE ANDREWS

By: Todd C. Nichols, WSBA #15366

3232 Rockefeller Ave., Everett, WA 98201

(425) 259-6111

Attorney for Appellant Dwayne Lane

ORIGINAL

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## **I. INTRODUCTION**

This case is not appropriate for Supreme Court review. It addresses classification of 110.5 acres of property in Snohomish County ("Island Crossing") and is not a matter of "substantial public interest" as contemplated by RAP 13.4(b)(4).<sup>1</sup>

The issue at hand involves the land planning actions of Snohomish County and the City of Arlington (Arlington) with regard to Island Crossing. Island Crossing exhibits singularly unique characteristics which separate it from any other parcel of land in the State. It is composed of small lots and contains service stations, motels, residences, a smoke shop, and a methadone clinic. It is served by water and sewer service, and is adjacent to Arlington's Urban Growth Area (UGA). Following a docket request pursuant to RCW 36.70A.470(2), Arlington and the County properly decided to expand Arlington's UGA by including Island Crossing after extensive public hearings, giving due consideration and adherence

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<sup>1</sup> Criteria to be considered to determine if a case has substantial public interest include 1) the public or private nature of the issue presented; 2) the desirability of an authoritative determination to provide future guidance to public officers; and 3) whether the issue is likely to recur. *Hart v. Dept. of Social & Health Servs.*, 111 Wn.2d 445, 448, 759 P.2d 1026 (1988). (Whether court will decide a "moot" question on the basis the matter is one of "substantial public interest"). Just because this case involves planning under the GMA does not make it an "issue of substantial public interest" for purposes of Supreme Court review.

to the requirements of the Growth Management Act.<sup>2</sup>

The crux of whether or not Island Crossing is properly included in the City of Arlington's Urban Growth Area revolves around application of the proper definition of "agricultural" land within the meaning of the Growth Management Act. This Court has recently clarified the meaning and application of that term in *Lewis County v. Western Washington Growth Management Hearings Board*, 157 Wn.2d 488, 139 P.3d 1096 (2006). An authoritative determination of this question has already been made by this Court which was properly applied by the Court of Appeals. There is no reason for this Court to revisit the issue.

The only other grounds to allow review are if the underlying decision is in conflict with a decision of the Supreme Court, or is in conflict with another decision of the Court of Appeals.<sup>3</sup> Analysis of the Court of Appeals decision in this case shows no such conflict exists. In fact, the underlying Court of Appeals decision clearly relies on, and complements the growing body of judicial work interpreting the GMA, and particularly the *Lewis County* decision.

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<sup>2</sup> The singularly unique characteristics of Island Crossing also prevent this case from being appropriate for discretionary review. Review based on the claim of "substantial public interest" is *not* appropriate where cases are limited on their facts. *Hart v. Dept. of Social & Health Servs. supra fn.1* at 449.

<sup>3</sup> RAP 13.4(b)(1) and (2). There is no contention the case involves a significant Constitutional question. RAP 13.4(b)(3).

Rather than meet their burden of showing specific instances of conflict with other decisions, Respondents<sup>4</sup> simply set forth a number of conclusory allegations. Those conclusory allegations fail to make any critical comparisons to purportedly conflicting decisions. The allegations fail to identify specific examples of judicial conflicts with other decisions. Respondents have failed to establish that the Court of Appeals decision in this case was either in error, or in conflict with decisions of the Supreme Court or Courts of Appeal. In essence, the action of Respondents exhibits characteristics of simple delay and review should not be granted.

Snohomish County and the City of Arlington engaged in a long, well-considered planning process which resulted in the reclassification of a small area of land in Snohomish County. That reclassification has been guided by, and conforms with, all the mandates of the Growth Management Act of Washington and is in accord with judicial interpretation of that Act.

In this Answer to the Petition for Review, Arlington and Lane will concentrate on the issues surrounding the locational criteria of the GMA and attempt to avoid duplication of Snohomish County's Answer. Arlington and Lane adopt and incorporate by reference all

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<sup>4</sup> Respondents below petition this court for review.



arguments made by Snohomish County.

## **II. COUNTER-STATEMENT OF THE CASE**

Island Crossing consists of approximately 110.5 acres of land which was included in the City of Arlington's Urban Growth Area as Urban Commercial land in 1995 as part of Snohomish County's first GMA Comprehensive Plan. The original designation was approved by the Snohomish County Council and the Central Puget Sound Growth Management Hearings Board. (Hereinafter Board). (CP 1822; CP 1852).

The 1995 Comprehensive Plan was subject to a number of challenges, including the classification of Island Crossing as Urban Commercial and its placement in Arlington's Urban Growth Area. Following the GMA appeal process, Snohomish County reversed its original designation of Island Crossing and the area was designated Riverway Commercial Farmland and Rural Freeway Service.<sup>5</sup>

On July 9, 2003, the Snohomish County Council adopted Amended Ordinance No. 03-072. That Amended Ordinance altered Snohomish County's Countywide Planning Policy (CPP)

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<sup>5</sup> This designation was upheld in the unreported decision of the Court of Appeals, *Lane v. Central Puget Sound Growth Management Hearings Board*, WL 244384 (2001).

UG-14 relating to Urban Growth Areas. (CP 23; CP 533-6).<sup>6</sup>

On September 10, 2003, as part of the annual docketing process,<sup>7</sup> the Snohomish County Council adopted Amended Ordinance No. 03-063 which revised the City of Arlington's Urban Growth Area by amending the Future Land Use Map of the County's General Policy Plan. The Amended Ordinance expanded Arlington's UGA to include the 110.5 acres in Island Crossing as it had originally been designated in the County's 1995 Comprehensive Plan. The Amended Ordinance was recommended to the County Council by the Snohomish County Planning Commission by a vote of 7-1. (CP 692-708).

Snohomish County's action was appealed to the Board. On March 22, 2004, the Board entered its Final Decision and Order (actually consisting of a Final Decision, FDO, and a Corrected Final Decision, Corrected FDO; CP 2508-2550; CP 2562-2602). The Board held Amended Ordinance 03-063 failed to be guided by, and did not comply with, RCW 36.70A.020(8), and that it failed to comply with RCW 36.70A.040, .060(1) and .170(1)(a). The Board also found the land in Island Crossing was not properly de-designated from agricultural and the actions of Snohomish County

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<sup>6</sup> There was no appeal or challenge to the change in CPP UG-14.

<sup>7</sup> See RCW 36.70A.470(2).

were clearly erroneous. (Corrected FDO at 30, CP 2591).

The Board also found the area was not properly included in Arlington's UGA and the action was not supported by a land capacity analysis. (Corrected FDO at 36, CP 2597). The Amended Ordinance was also found to violate RCW 36.70A.110, .210(1) and .215, and the Board found the actions regarding the UGA expansion were clearly erroneous. (Corrected FDO at 38, CP 2599). The Board specifically declined to address issues regarding Critical Areas and no party timely moved for reconsideration or appeal of that portion of the decision. (Corrected FDO at 38, CP 2599).<sup>8</sup>

Through remand, the County held new hearings and received new testimony concerning the character of the land in Island Crossing. The County also reviewed and adopted a new land capacity analysis titled *Buildable Lands Report 2003 Update, City of Arlington UGA, Analysis of Availability of Commercial Parcels and Land Supply, May 5, 2004*. After receiving and analyzing this new evidence, the Snohomish County Council adopted Emergency Ordinance 04-057 by a vote of 4-1, upholding

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<sup>8</sup> Snohomish County, the City of Arlington and Dwayne Lane filed timely Petitions for Review of other pertinent portions of the Board's FDO. (CP 3146-3195; CP 2986-3088).

the redesignation of Island Crossing. (CP 513-31).

A Compliance Hearing was held after the adoption of Emergency Ordinance 04-057. On June 24, 2004, the Board entered an Order Finding Continuing Noncompliance and Invalidity and Recommendation for Gubernatorial Sanctions. (Order on Compliance, CP 2885-2920). The Board found the County was required to engage in an analysis of "*area-wide patterns of land use, not localized parcel ownerships*" in order to make agricultural designations. (Order on Compliance at 18, emphasis in original, CP 2903). The Board *did* find that the land capacity analysis used by the County corrected the land capacity defects identified in the previous FDO and rectified the problems with RCW 36.70A.215. No party appealed this finding. The Board concluded, however, the locational criteria of the GMA did not comport with the mandates of the GMA. (Order on Compliance at 22-23, CP 2907-08).<sup>9</sup> Timely Petitions for Review were filed in Snohomish County Superior Court regarding the Order on Compliance.

The trial court dismissed the review on the basis of res

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<sup>9</sup> Because no party appealed the lack of action by the Board in the original FDO and Corrected FDO regarding Critical Areas, the Board concluded it no longer had jurisdiction to address arguments and claims made by Respondents in the Order on Compliance. (Order on Compliance at 8, CP 2983). This issue was also not subject to a Motion for Reconsideration or appeal to the Superior Court.

judicata and collateral estoppel principles. (Oral Decision at 15, CP 162). The trial court also upheld the Board's other findings with regard to the County's planning decision. (Oral Decision at 18, 30, 33-34, CP 165, 177, 179-180).

Following a Motion for Reconsideration, the trial court held the planning process and actions by the County to amend a comprehensive plan were legislative actions not subject to res judicata or collateral estoppel; however, judicial review would be subject to those principles. (Memorandum Decision at 6, 8, CP 31, 33).

The Court of Appeals found the decision of the local planning agencies redesignating the land from its agricultural designation was not clearly erroneous, there was substantial evidence in the record to support the actions of the County, and the Board should have deferred to the County. *City of Arlington vs. Central Puget Sound Growth Management Hearings Board*, 138 Wn.App 1, 16-21, 26-28, 154 P.2d 936 (2007).

Further, the Court of Appeals found the Board erred with regard to its decision regarding the locational criteria of the GMA. The Board was wrong to find the County committed clear error when it included Island Crossing in the City of Arlington's UGA

because there were substantial facts in the record to support the conclusion the land in Island Crossing was characterized by urban growth and/or adjacent to territory already characterized by urban growth as defined by the GMA. *Id.* at 21-23.

The Court of Appeals finally held that the trial court erred in dismissing the appeal on res judicata and collateral estoppel grounds. The Court of Appeals reversed and remanded the matter to the Board for a decision consistent with its opinion. *Id.* at 26-28.

A Motion for Reconsideration was denied on May 29, 2007.

This Petition for Review was filed on June 28, 2007.

### **III. ARGUMENT**

#### **A. Standard of Review.**

This Court recently restated the standard for Growth Management Hearings Board review as:

The Growth Management Hearings Board is charged with adjudicating GMA compliance and invalidating noncompliant plans and development regulations. RCW 36.70A.280, .302. The Board "shall find compliance" unless it determines that a county action "is clearly erroneous in view of the entire record before the board and in light of the goals and requirements" of the GMA. RCW 36.70A.320(3). To find an action "clearly erroneous," the Board must have a "firm and definite conviction that a mistake has been committed." On appeal, we review the Board's decision, not the superior court decision affirming it. "We apply the standards of RCW 34.05 directly to the record before the agency, sitting in the same position as the superior court".

*Lewis County v. Western Washington Growth Management Hearings Board*, 157 Wn.2d 488, 497, 139 P.3d 1096 (2006) (Internal citations omitted.)

Further, relief shall be granted under the Administrative Procedure Act if *any* of the nine standards set forth in RCW 34.05.570(3)<sup>10</sup> have not been met. *Id.* at 498. A Board is required to grant deference to counties and cities in how they plan, yet a Board is entitled to deference in determining what the GMA may require. *Id.* at 498. However, when a Board fails to properly apply presumptions of validity and deference to agencies planning under the GMA and decisions made with regard to growth, the Board is not entitled to any deference by the reviewing court. *Quadrant Corporation v. Growth Management Hearings Board*, 154 Wn.2d 224, 238, 110 P.3d 1132 (2005). A reviewing body may not substitute its judgment for the decision making body. *Association of Rural Residents v. Kitsap County*, 141 Wn.2d 185, 196, 4 P.3d 115 (2000).

In the instant case, the Court of Appeals determined the Board committed error by rejecting the planning decisions of

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<sup>10</sup> When portions of statutes are referenced in the body of the brief, the whole statutory language appears in the Appendix documents.

Snohomish County and the City of Arlington. There was substantial evidence in the record before the Board to justify the actions of the County and City. The Board improperly ignored evidence, created new criteria which does not appear in the GMA, and failed to grant proper deference to the decisions of the County and City.

**B. Island Crossing Meets the Locational Criteria of the GMA.**

**1. Locational criteria defined.**

Following public participation, Snohomish County and the City of Arlington made a local planning decision to include Island Crossing in Arlington's Urban Growth Area. The concept of locational criteria for urban growth areas under the GMA is described in RCW 36.70A.110(1) as:

*...An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, ...*<sup>11</sup> (Emphasis added).

The GMA thoughtfully defines "characterized by urban growth" as:

*...land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth. (Emphasis added).*

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<sup>11</sup> See also WAC 365-195-335(1)(c)



RCW 36.70A.030(18).<sup>12</sup>

In addition, the GMA describes urban growth as:

...growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of the land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170....When allowed to spread over wide areas, *urban growth typically requires urban government services...* (Emphasis added).

RCW 36.70A.030(18).

Finally, in helping to describe urban character under the GMA, urban services are defined as:

“Urban governmental services” or “urban services” include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and *sanitary sewer systems, domestic water systems*, street cleaning services, *fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.* (Emphasis added).

RCW 36.70A.030(20).<sup>13</sup>

Ultimately, the GMA directs that urban growth should be encouraged:

...in urban areas where *adequate public facilities and services exist or can be provided in an efficient manner.* (Emphasis added).

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<sup>12</sup> See also WAC 365-195-200(14)

<sup>13</sup> See also WAC 365-195-200(12) and (13).

RCW 36.70A.020(1).

Urban public facilities and services are described as:

“Public facilities” include streets, roads, highways, sidewalks street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

“Public services” include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

RCW 36.70A.030(12) and (13); WAC 365-195-200(12) and (13).

To be meaningful within the GMA:

“Available public facilities” means that facilities or services are in place or that a financial commitment is in place to provide the facilities or services within a specified time...

WAC 365-195-210.

The record developed by Snohomish County and the City of Arlington through the planning process contains substantial evidence that Island Crossing is characterized by urban growth as defined by the GMA, has urban services itself, and is adjacent to land which is characterized by urban growth. The Court of Appeals properly recognized this evidence, though the Board did not.

## **2. Substantial evidence in the record.**

Substantial evidence is evidence which is of sufficient quantity to persuade a fair-minded person of the truth or

correctness of the order. *Campbell v. Board for Volunteer Firefighters*, 111 Wn.App. 413, 418, 45 P.3d 216 (2002), *rev. den.* 148 Wn.2d 1016, 64 P.3d 650 (2003).

Island Crossing is a triangular property bordered on the west by Interstate 5, on the north by State Route 530 and on the east by Smokey Point Boulevard (Old Highway 99). Its southern end abuts Arlington's UGA. The area is served by water, power, telecommunications and gas. Arlington has amended its capital facilities area plan for water, utilities and sewage which includes Island Crossing. (CP1823; CP 1835; CP 1840; CP 1854; CP 1886-7). The presence of these facilities has allowed Island Crossing to become the home of three gas stations, three restaurants, a motel, an espresso stand, and single-family homes. Several residences in the Island Crossing area are presently connected to municipal water service. (CP 1855; CP 1876).

The record before the County indicated adequate capacity to handle further growth in the area. Development already has established services that are unrelated to "freeway" services under the current designation. They include a pharmacy, smoke shop, police station, community center, and a methadone treatment clinic operated by the Stillaguamish Tribe. (CP 426; CP 1855).

The area receives public services including fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.<sup>14</sup> These services are provided by Snohomish County Fire Protection District 19, the Snohomish County Sheriff, the Snohomish Health District, the Lakewood School District and the Sno-Isle Regional Library System. (CP 1884).<sup>15</sup>

In examining this issue, the Court of Appeals noted the definition of “characterized by urban growth” in RCW 36.70A.030(18) (set forth above), reviewed the entire record, and stated:

We find that the unique location of the land at Island Crossing as abutting the intersection of two freeways and its connection to the Arlington UGA together meet the requirements of RCW 36.70A.110(1). Thus, the County’s reliance on such facts in expanding the Arlington UGA was proper and the Board’s decision reversing the County’s action is erroneous.

The County stated in its ordinance: “This land is located at an I-5 interchange between an interstate highway and a

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<sup>14</sup> Compare these items in existence at Island Crossing to RCW 36.70A.030(15), which describes rural character as emphasizing open space, rural economies, use by wildlife for wildlife habitat and areas which do not require extension of urban government services.

<sup>15</sup> *n.b.* All but one of the parcels in the area is smaller than the minimum 20 acres for open space classification. Parcels range in size from 20.7 acres to 2.9 acres (CP 1194). Only 32% of the land is taxed as agricultural, and properties are currently assessed as being on “public water” and “freeway influence”. (CP 1193-94; CP 1816; CP 1840; CP 1853-55).

state highway, and is uniquely located for commercial needs of the area. This land has unique access to utilities.” In other words, the County concluded that the land is appropriate for urban growth because the land is located at a highway interchange and has unique access to utilities. The County also acknowledged the land has existing freeway service structures on it and is adjacent to the City of Arlington’s urban growth area. Taken together, these facts at least support a conclusion that the land in question is “located in relationship to an area with urban growth on it as to be appropriate for urban growth” and thus characterized by urban growth.

*City of Arlington, supra* at 23.

The Court of Appeals reviewed the record before the Board and acknowledged it contained substantial evidence to support the decision of the County with regard to the urbanized nature of the land. Under the guides of the GMA and APA, the decision of the County could not be considered clearly erroneous. There was no error by the Court of Appeals.

**3. Island Crossing is also adjacent to land characterized by urban development.**

In reversing the planning decisions of the County and Arlington, the Board erroneously concluded the Island Crossing area did not meet the “adjacency” elements of the GMA.<sup>16</sup> This is in spite of the fact the land abuts the Arlington Urban Growth Area!

The Board and Respondents rely on an argument that the

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<sup>16</sup> RCW 36.70A.110(1).

area resembles a "kite on a string" and thus somehow cannot be considered "adjacent" to land already characterized by urban growth. The conclusion of the Board is curious because it completely contradicts its own reasoning in an earlier case.<sup>17</sup>

The Board rejected out of hand the attempt to place Island Crossing in Arlington's UGA, regardless of the fact the area abutted Arlington's existing UGA. The Court of Appeals found no basis for that decision by the Board and held it was erroneous.

The Board offers no support for its definition of "adjacent," which to the Board implies something more than the simple dictionary definition of "abutting" or "touching." We decline to adopt the Board's definition of adjacent in favor of the plain meaning of the term. Because the land in question touches the Arlington UGA, it is adjacent to territory already characterized by urban growth for the purposes of RCW 36.70A.110(1).

*City of Arlington, supra*, at 24.

The Court of Appeals committed no error in reaching this conclusion. Statutory construction requires that a court give language its plain meaning. If the language is unclear and there is no statutory definition, statutory construction requires words be

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<sup>17</sup> In *Tacoma v. Pierce County*, CPSGMHB No. 99-3-0023c, 2000 WL 107591S, the Board rejected an attempt by Tacoma to make a planning decision to extend sewer service to a farm by creating a Rural Area of More Intensive Development although the farm was immediately adjacent to a UGA and 400 feet from Tacoma's city limits. The Board concluded the better approach was to consider the property as an appropriate candidate for UGA expansion. *Id.* at p.5, p.7.

given their common and ordinary meaning and courts may use a dictionary to determine that meaning. *Vance v. Department of Retirement Systems*, 114 Wn.App. 572, 577, 59 P.3d 130 (2002), *rev. den.* 149 Wn.2d 1028, 78 P.3d 657 (2003). Rather than use the Board's vague interpretation of adjacent, the Court of Appeals took an approach supported by common sense and the law.

**4. Review is not justified by RAP 13.4(b)(1) or (4).**

Futurewise argues at pages 17-18 of its petition that review should be granted based on a purported conflict with this Court's decision in *Redmond v. Growth Hearings Board*, 136 Wn.2d 38, 959 P.2d 1091 (1998) ("*Benaroya I*"). RAP 13.4(b)(1). The quoted language from *Benaroya I* discusses the sequencing of planning, such that the designation of resource lands is required before the formulation of UGAs. Nowhere, however, does *Benaroya I* stand for the principle that a county may not later re-designate agricultural land for urban development. In fact, there is a docketing process for just that purpose, where appropriately accomplished, as here. RCW 36.70A.470(2). *Benaroya I* is not on point, and therefore the Court of Appeals decision does not conflict with a Supreme Court decision.

Likewise, Futurewise argues at page 18 of its petition that

the Legislature's requirement that UGAs be designated constitutes substantial public interest which should merit review. RAP 13.4(b)(4). The mere enactment of a statute does not itself transform a Court of Appeals decision into "an issue of substantial public interest that should be determined by the Supreme Court".

#### **IV. CONCLUSION**

The purpose of the GMA is to guide local planning agencies and help them make reasoned planning decisions. There is nothing in the GMA which dictates that once an area has been designated agricultural, that designation may not be properly changed in a subsequent review. RCW 36.70A.470(2). In fact, the import of the GMA is to give local agencies the opportunity to meet local needs within the parameters of the GMA.

Island Crossing has water, sewer, public facilities and services and is home to numerous structures and development which is clearly urban in nature. If Island Crossing cannot be included in a city's UGA, then the question becomes; "What land could possibly be considered 'urbanized' under the GMA and be proper for inclusion?" Island Crossing has urban characteristics, is adjacent to urbanized land, and is characterized by urban growth not only itself but by virtue of its location adjacent to Arlington's




existing UGA. It is appropriate for urban growth under the GMA.  
RCW 36.70A.030(18).

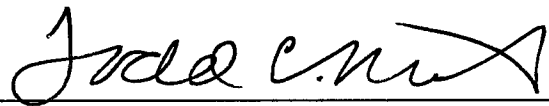
This Court has addressed (1) the level of deference to local planning bodies, and (2) the proper test for designating agricultural lands under the GMA. *Quadrant, supra*, and *Lewis County, supra*. The underlying decision is not in conflict with Supreme Court or other Court of Appeals' decisions. There is no reason for this Court to accept discretionary review of this case. RAP 13.4(b).

Respectfully submitted this 23 day of July, 2007.

BAILEY, DUSKIN, PEIFFLE & CANFIELD, P.S.

  
\_\_\_\_\_  
Steven J. Peiffle #14704  
Attorney for Petitioner City of Arlington

COGDILL NICHOLS REIN WARTELLE ANDREWS

  
\_\_\_\_\_  
By: Todd C. Nichols #15366  
Attorney for Petitioner Dwayne Lane

## **V. APPENDIX**

Amended Ordinance No. 03-063 . . . . .	A-1
Emergency Ordinance No. 04-057 . . . . .	B-1
Chapter 34.05 RCW (excerpt cited) . . . . .	C-1
Chapter 36.70A RCW (excerpts cited) . . . . .	D-1
Chapter 365 – 195 WAC (excerpts cited) . . . . .	E-1

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 03-063

REVISING THE EXISTING URBAN GROWTH AREA  
FOR THE CITY OF ARLINGTON; ADOPTING MAP AMENDMENTS  
TO THE GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN;  
AND ADOPTING COUNTY-INITIATED AREA-WIDE REZONES  
PURSUANT TO CHAPTER 30.74 SCC; AND AMENDING AMENDED  
ORDINANCE 94-125, ORDINANCE 94-120, AND  
EMERGENCY ORDINANCE 01-047

WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA) requires Snohomish County to designate an urban growth area (UGA) within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature (RCW 36.70A.110(1)); and

WHEREAS, the county council designated a Final UGA for Arlington (Amended Ordinance 94-120) on June 28, 1995, after holding public hearings from April 19, 1994, through January 18, 1995, in conformance with the requirements of the GMA; and

WHEREAS, on June 28, 1995, the county council approved Amended Ordinance 94-125 which adopted a GMA Comprehensive Plan including a General Policy Plan (GPP) and Future Land Use (FLU) map; and

WHEREAS, the county council amended the Final UGA for Arlington on July 23, 2001 (Emergency Ordinance 01-047) in conformance with the requirements of the GMA; and

WHEREAS, RCW 36.70A.130 and 36.70A.470 direct counties planning under the GMA to adopt procedures for interested persons to propose amendments and revisions to the comprehensive plan or development regulations; and

WHEREAS, the county council adopted chapter 30.74 SCC to comply with the requirements of RCW 36.70A.130 and .470 to allow interested persons to propose amendments to the GMA comprehensive plan and/or development regulations; and

WHEREAS, Snohomish County Department of Planning and Development Services (PDS) staff, pursuant to the SCC 30.74.030, reviewed all proposals on the docket and determined that twenty-one of the proposals could be reviewed and analysis could be

completed within the time frame of the 2003 final docket review cycle, including the proposal by Dwayne Lane to amend the Arlington UGA boundary; and

WHEREAS, the 2003 final docket – Phase 1 includes proposals to amend the GPP FLU map submitted by Jerry Booker, City of Everett, Frank Heath, NORETEP, Snohomish County Department of Public Works, Dwayne Lane, Eddie Bauer, and Wellington Morris; and

WHEREAS, pursuant to Chapter 30.74 SCC, PDS completed final review and evaluation of the 2003 final docket – Phase 1, including rezones to implement proposals to amend the GPP FLU map, and forwarded a recommendation to the Snohomish County Planning Commission; and

WHEREAS, the planning commission held hearings on the Dwayne Lane proposal including the proposal to amend UGA boundaries, on February 25 and March 4, 2003, and forwarded a recommendation to the county council; and

WHEREAS, the county council held a public hearing on July 9, 2003, continued to July 30, August 13, and September 10, 2003, to consider the entire record and hear public testimony on Ordinance 03-063, adopting revisions to the Arlington UGA.

NOW, THEREFORE, BE IT ORDAINED:

**Section 1:** The county council makes the following findings of fact and conclusions:

- A. The county council hereby adopts and incorporates by reference the findings and conclusions adopted and the legislative records developed in adopting Amended Ordinance 94-120, Amended Ordinance 94-125, Ordinance 97-076, and Emergency Ordinance 01-047.
- B. The proposal by Dwayne Lane to amend the FLU map of the GPP to expand the Arlington UGA to include 110.5 acres to be redesignated from Riverway Commercial Farmland and Rural Freeway Service to Urban Commercial and rezone 110.5 acres from Rural Freeway Service and Agriculture-10 Acres to General Commercial more closely meets the policies of the GPP than the existing plan designation based on the planning commission's following findings of fact and conclusions:
  - 1. When Dwayne Lane purchased the subject property, the General Policy Plan designation was Urban Commercial.
  - 2. Water and sanitary sewer lines running along the west side of Smokey Point Boulevard are available adjacent to the subject property. This

system is owned by the City of Arlington which has invested in utilities in the area because it believes the area is "destined for more intense urban development."

3. The Island Crossing freeway interchange currently supports commercial uses.
  4. The subject property is adjacent to Interstate-5, SR 530, and Smokey Point Boulevard.
  5. The permit process for commercial projects requires higher development standards for critical areas than is the case for development on agricultural lands. The 150 foot buffer requirements associated with new commercial development will better preserve Portage Creek.
  6. Ragnar soils are the best soils for production of commercial crops and there are no Ragnar soils at Island Crossing. The Island Crossing area consists primarily of Puget soils that are adequate for hay, green chop and pasture, but are not suitable for more valuable crops like berries and corn. The Puget soils are considered "prime" only when artificially drained, which the land at the site is not, and even when drained the Puget series is considered of low productivity.
  7. Farming is no longer financially viable at Island Crossing. Busy highways, high assessed value, small parcel size and safety issues eliminate the viability of the Island Crossing Interchange site as agricultural land.
  8. Snohomish County is growing rapidly and it is inevitable that sites like Island Crossing will be converted from agricultural uses to commercial uses.
  9. The Commission has concerns about the history of floods in this area and the associated impacts. However, the Commission believes that the impacts can be mitigated as is clearly shown in the DSEIS.
  10. The Commission also has concerns about traffic impacts at Island Crossing as a result of future urban development. The Commission believes that the impacts can be mitigated. The DSEIS shows that traffic impacts can be fully mitigated.
- C. The proposed expansion to the Arlington UGA is consistent with GPP Policies LU 1.A.3 and LU 2.C.3, which require that new development within UGAs are provided with adequate infrastructure and services, including sanitary sewers.
- D. The proposed area-wide rezone (Exhibit C, Map 7a) is consistent with the following initial criteria for rezone requests in SCC 30.74.040:

1. Where applicable, the proposed rezones are necessary because an amendment to the future land use map of the GPP has also been proposed that meets the initial evaluation criteria listed in SCC 30.74.030.
  2. Public facilities and services necessary for development are available or programmed to be provided to the sites of the proposed rezones, consistent with the GMA comprehensive plan or development regulations as determined by applicable service providers.
  3. The proposed rezones do not require a concurrent site plan approval because there is an absence of special site conditions and applicable GPP or subarea policies.
- E. The proposed area-wide rezone (Exhibit C, Map 7a) is consistent with the GMA comprehensive plan and consistent with the provisions of the GMA.
- F. The county council concludes that the proposed area-wide rezone (Exhibit C, Map 7a) implements the county's GMA comprehensive plan.
- G. The county council concludes that the proposed area-wide rezone (Exhibit C, Map 7a) bears a substantial relationship to the public health, safety and welfare.
- H. The proposed UGA amendment is consistent with the following final review and evaluation criteria of SCC 30.74.060:
1. The proposed amendment maintains consistency with other elements of the GMA comprehensive plan;
  2. All applicable elements of the GMA comprehensive plan support the proposed amendment;
  3. The proposed amendment meets the goals, objectives, and policies of the GMA comprehensive plan as discussed in the specific findings; and
  4. The proposed UGA amendment is consistent with the countywide planning policies.
- I. The amendment to the GMA comprehensive plan satisfies the procedural and substantive provisions of and is consistent with the GMA.
- J. The amendment maintains the GMA comprehensive plan's consistency with the multi-county policies adopted by the Puget Sound Regional Council and with the countywide planning policies for Snohomish County.
- K. Cities have been notified and consulted with regarding proposed amendments that affect UGAs or GPP FLU map designations within UGAs.

- L. There has been early and continuous public participation in the review of the proposed amendments.
- M. A Draft Supplemental Environmental Impact Statement (DSEIS) was issued on February 19, 2003, for the Dwayne Lane proposal. A Final SEIS, including response to comments on the DSEIS, was prepared following the 30-day comment period and was issued on July 1, 2003. The purpose of the SEIS was to analyze potential significant adverse environmental impacts of the proposals and any alternatives that were not previously identified in the two EIS documents and a series of addenda prepared for the Snohomish County GMA Comprehensive Plan – General Policy Plan and Transportation Element between 1994 and 2003.
- N. The recommended amendments are within the scope of analysis contained in the SEIS and associated adopted environmental documents and result in no new significant adverse environmental impacts. The SEIS performs the function of keeping the public apprised of the refinement of the original GMA comprehensive plan proposal by adding new information, but does not substantially change the analysis of significant impacts and alternatives analyzed in the existing adopted environmental documents.
- O. The SEPA requirements with respect to this proposed action have been satisfied by these documents.
- P. The county council held a public hearing on July 9, 2003, continued to July 30, August 13, and September 10, 2003, to consider the planning commission's recommendations.
- Q. The public was notified of the public hearings held by the planning commission and the county council by means of published legal notices in The (Everett) Herald and local newspapers.
- R. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.
- S. Approval of the Island Crossing Interchange Docket Proposal is not precedent for redesignation of Agricultural land in the Stillaguamish Valley. This proposal is approved entirely on its own merits. These include:
  - (1) This proposal is supported by the Snohomish County Planning Commission.
  - (2) Bringing this land into the Arlington Urban Growth Area is fully supported by the City of Arlington.
  - (3) This proposal is supported by the Stillaguamish Tribe.

- (4) This land is located at an I-5 interchange between an interstate highway and a state highway, and is uniquely located for commercial needs of the area.
- (5) This land has unique access to utilities. Redesignation of adjacent properties to the east will not occur because utilities are unavailable to the east.

T. The land contained within the Island Crossing Interchange Docket Proposal is not agricultural land of long term commercial significance. Although some of the soils may be of a type appropriate for agricultural use, soil type is only one factor among many others in the legal test for agricultural land of long term commercial significance. The County Council has addressed the question as to whether the land is:

"primarily devoted to the commercial production of agricultural products and has long term commercial significance for agricultural production"

and has found that it is not.

At the public hearing, the testimony of Mrs. Roberta Winter (Exh. 111) was very persuasive on this point. Since the mid-1950's, she and her husband had a dairy farm in the very location of the Island Crossing Interchange Docket Proposal site. Locating and then expanding I-5 put them out of the dairy business. They soon discovered that crops generated less revenue than the property taxes. The Winters sold the land because the land could not be profitably farmed.

Council finds that this land cannot be profitably farmed, and is not agricultural land of long term commercial significance.

U. The Island Crossing Interchange Docket Proposal site has episodically flooded in the past and will continue to episodically flood in the future, whether or not the proposal is approved, and whether or not the site is developed. The relevant question is not whether the proposal site experiences floods, but rather does the site experience significant adverse flood impacts which cannot be reasonably mitigated.

The Draft Supplemental Environmental Impact Statement (Exh. 22) clearly states, at p. 2-24:

Assuming effective implementation of applicable regulations and recommended mitigation measures, no significant unavoidable adverse surface water quantity or quality impacts would be anticipated associated with the future development of the site.



V. In Exh. 135, applicant of the Island Crossing Interchange Docket Proposal states various development techniques and plans which will be voluntarily used to minimize the prospect of flood impacts. These techniques include the following:

- Excavation to create additional storage.
- Building pads and access roads will only be filled to the 100-year floodplain level.
- Minimize the amount of fill brought on-site.
- Most fill will be excavated onsite.
- Water passage to South Slough and Portage Creek will remain unimpeded.
- Parking lots will be built below Base Flood Elevation.
- Parking lots may be built of permeable surface.
- Impermeable surface will be minimized.

**Section 2.** The county council bases its findings of facts and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the planning commission and county council.

**Section 3.** The county council hereby amends Amended Ordinance 94-120 as adopted on June 28, 1995, last amended by Emergency Ordinance 01-047 as adopted on July 23, 2001, to modify Exhibits A and C which were therein incorporated. The county council hereby adopts two new exhibits for Amended Emergency Ordinance 01-047: (1) Exhibit A, Map 7 ("Proposed Comprehensive Plan Amendment, Dwayne Lane") which is a map that depicts the modified UGA boundary for the Arlington UGA; and (2) Exhibit C which is a county assessor's map that accurately depicts the revised UGA boundary for the Arlington UGA. Exhibits A and C are attached hereto and incorporated herein by this reference. After the effective date of Ord. 03-063, development in the Island Crossing Interchange Docket Proposal area added to the Arlington UGA by Ord. 03-063 should be conditioned upon use of the flood protection measures outlined above in finding V of Section 1, provided such flood protection measures are technically feasible and do not defeat the purpose of the development.

**Section 4.** Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan Future Land Use Map adopted as Map 4 of Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995, and last amended by Ordinance No. 03-001 on January 27, 2003, is amended as depicted in Exhibit A, Map 7 which is attached hereto and incorporated by reference into this ordinance as if set forth in full.

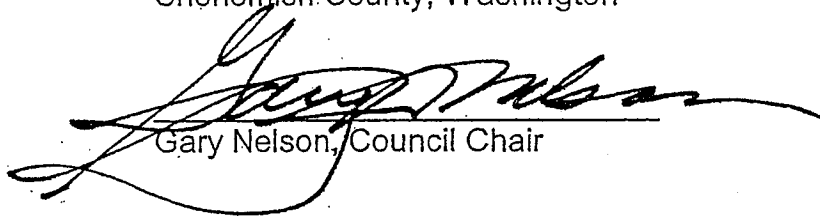
**Section 5.** Based on the foregoing findings and conclusions, the county council hereby adopts the area-wide rezone as mapped in the following documents which are attached hereto and incorporated by reference into this ordinance as if set forth in full:

- A. Assessor map showing the rezone incorporated herein as Exhibit C; and
- B. Map 7a and incorporated herein as Exhibit B.

**Section 6. Severability.** If any provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remainder of this ordinance. Provided, however, that if any provision of this ordinance is held invalid or unconstitutional, then the provision in effect prior to the effective date of this ordinance shall be in full force and effect for that individual provision as if this ordinance had never been adopted.

PASSED this 10th day of September, 2003.

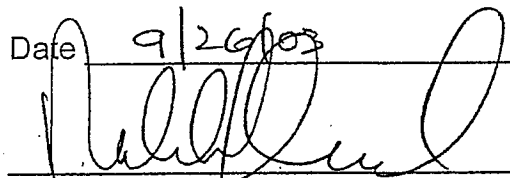
SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

  
Gary Nelson, Council Chair

ATTEST:

  
Clerk of the County Council, asst.

- ( ) Approved  
( ) Emergency  
(☒) Vetoed

Date 9/26/03  
  
Robert J. Drewel  
County Executive

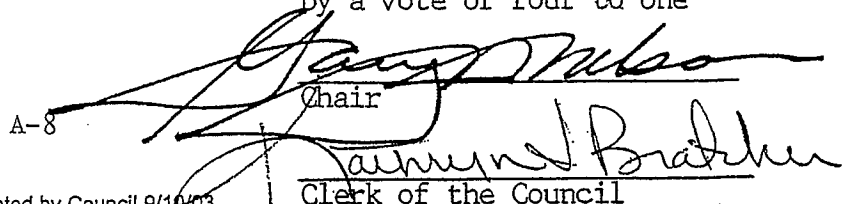
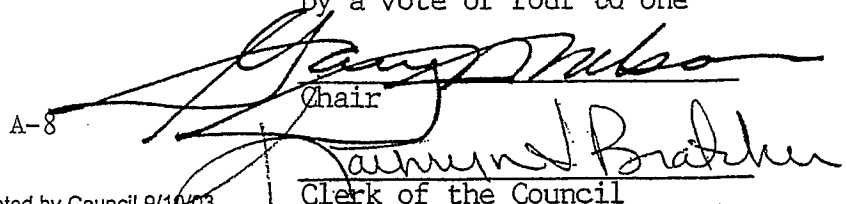
APPROVAL AS TO FORM ONLY

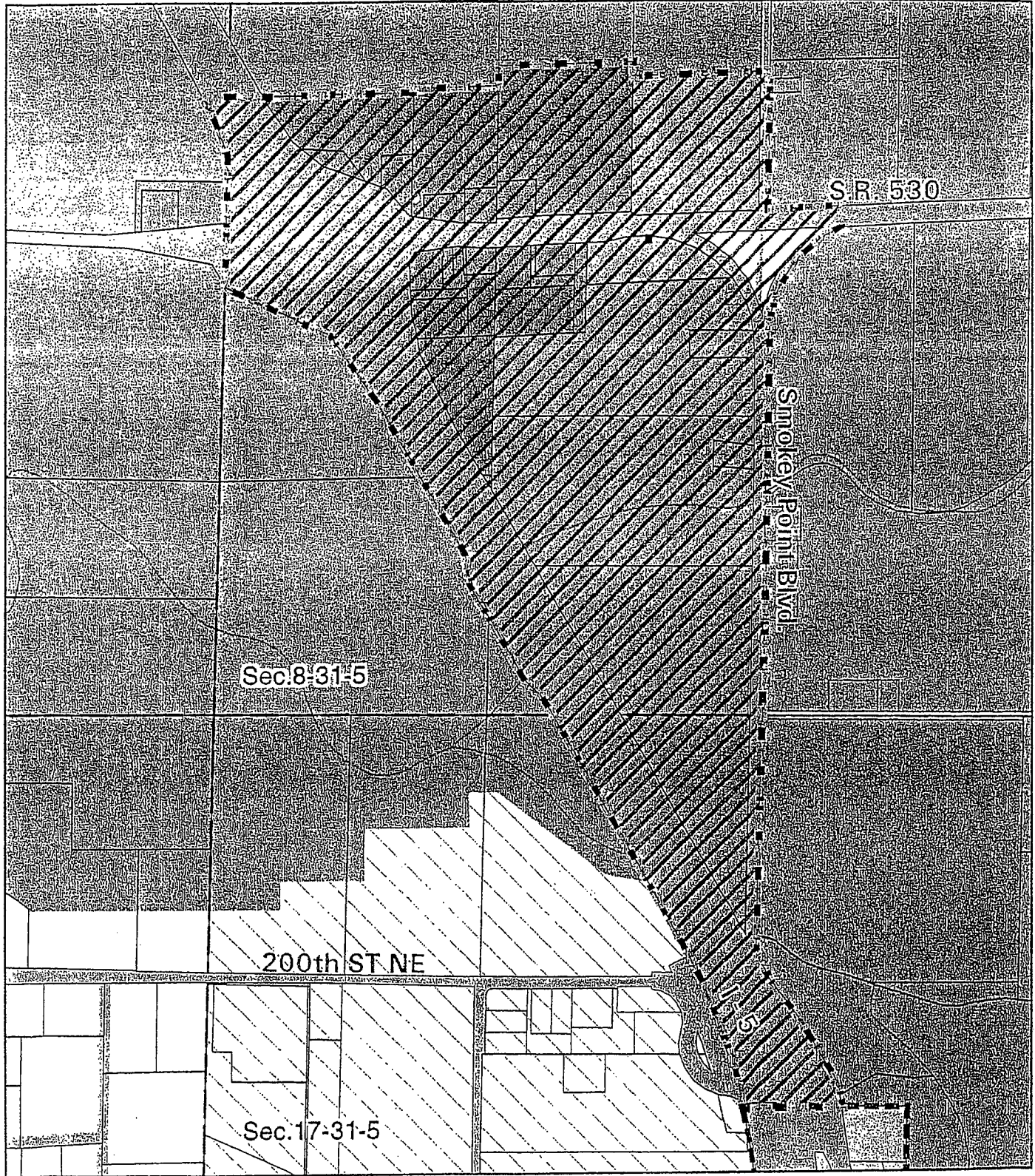
\_\_\_\_\_  
Deputy Prosecuting Attorney

ATTEST:

 Date 9/26/03

Veto Overridden on Oct. 22, 2003  
by a vote of four to one

A-8   
Chair  
  
Clerk of the Council



Snohomish County 2003 Docket  
**Proposed Comprehensive Plan Amendment**  
**Dwayne Lane**



January 2003

LEGEND

Existing County Plan Designations

- |   |                             |
|---|-----------------------------|
| Riverway Commercial Farmland                  | Rural Freeway Service       |
| Rural Residential (1 DU/5 Acres Basic)        | Tribal Trust Lands          |
| Urban Low Density Residential (4 - 6 DU/Acre) | Rural/Urban Transition Area |

Proposed Plan Amendment

- Dwayne Lane: Redesignate Riverway Commercial Farmland, and Rural Freeway Service to Urban Commercial
- A-9

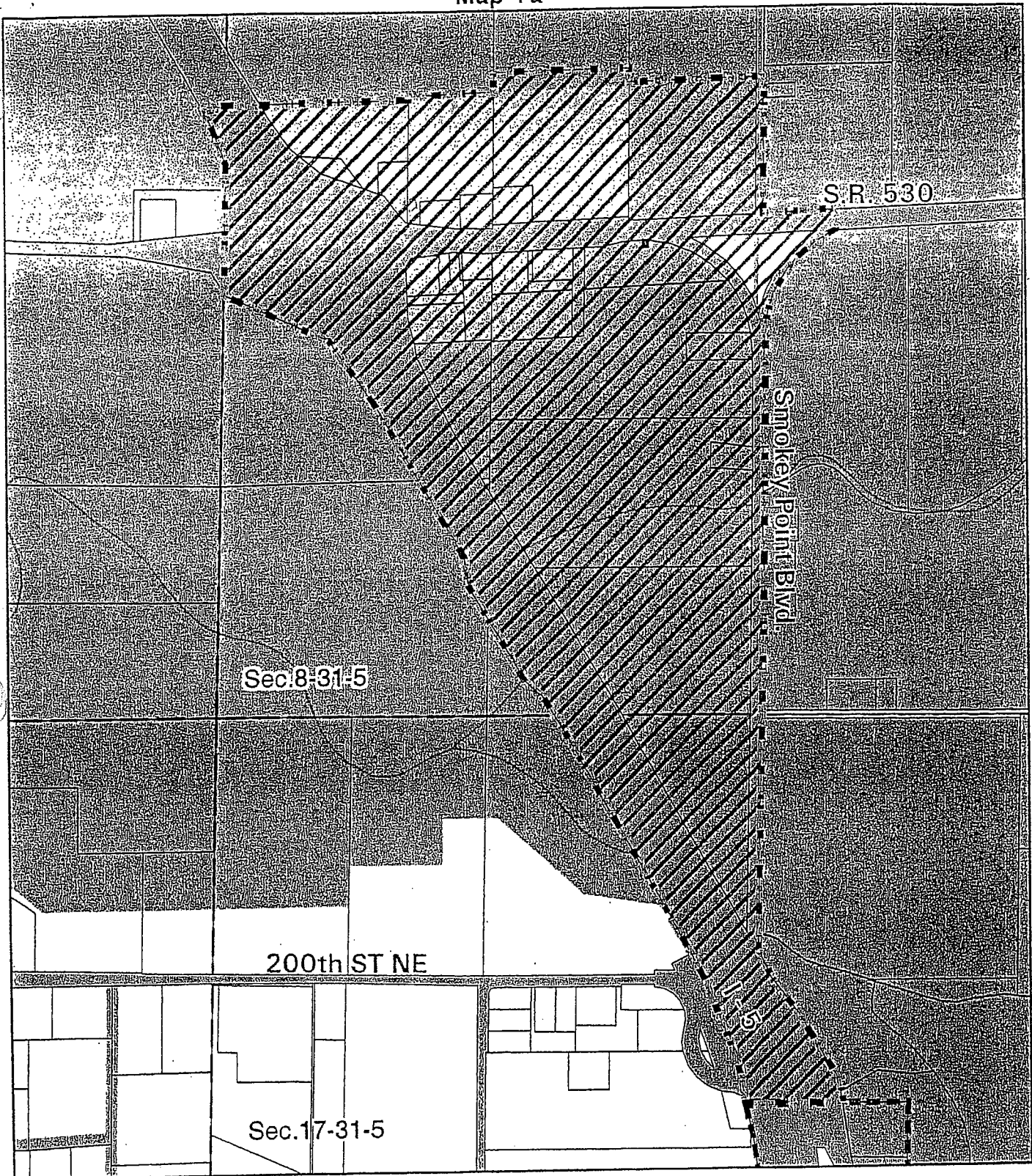
Expand Arlington UGA.

- Incorporated Cities
- Existing Urban Growth Area I

This map is a graphic representation derived from the Snohomish County Geographic Information System. It does not represent survey accuracy. Property lines are for illustrative purposes and depict only generalized parcels.  
 Produced by Snohomish County Planning Div., GIS Team;cbl;  
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Scale in Feet

0 350 700 1050



Snohomish County 2003 Docket  
Implementing Rezone  
**Dwayne Lane**



LEGEND

Existing Zoning

- Agriculture-10 Acre
- Tribal Trust Lands
- Rural-5 Acre
- Rural Freeway Service

Proposed Rezone

- Dwayne Lane:  
Rezone from  
Rural Freeway Service and  
Agriculture-10 Acre to  
General Commercial
- A-10

Expand Arlington UGA.

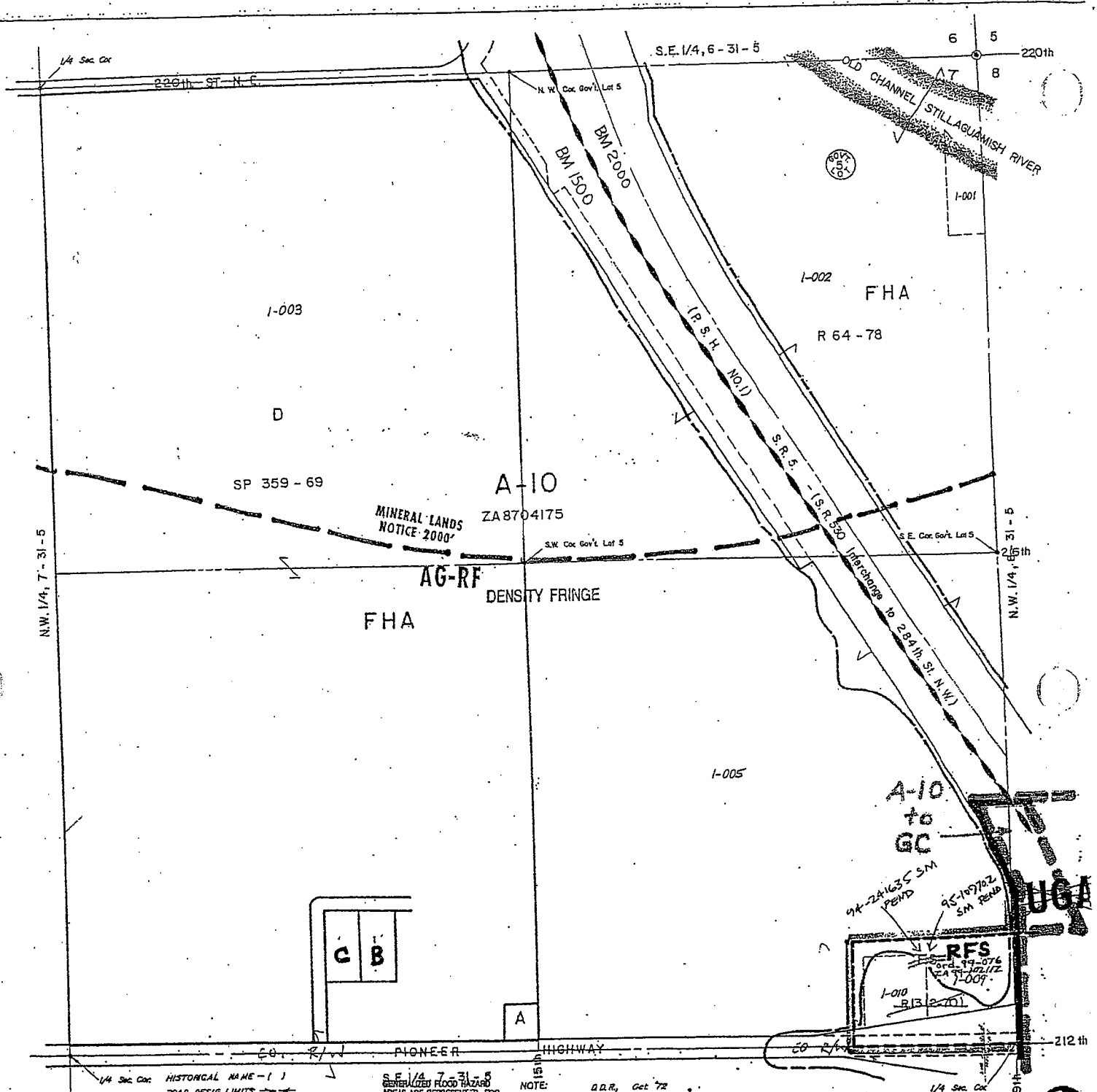
- Incorporated Cities
- Existing Urban Growth Area Bdy.

This map is a graphic representation derived from the Snohomish County Geographic Information System. It does not represent survey accuracy. Property lines are for illustrative purposes and depict only generalized parcels.  
Produced by Snohomish County Planning Div.  
GIS Team/cbl  
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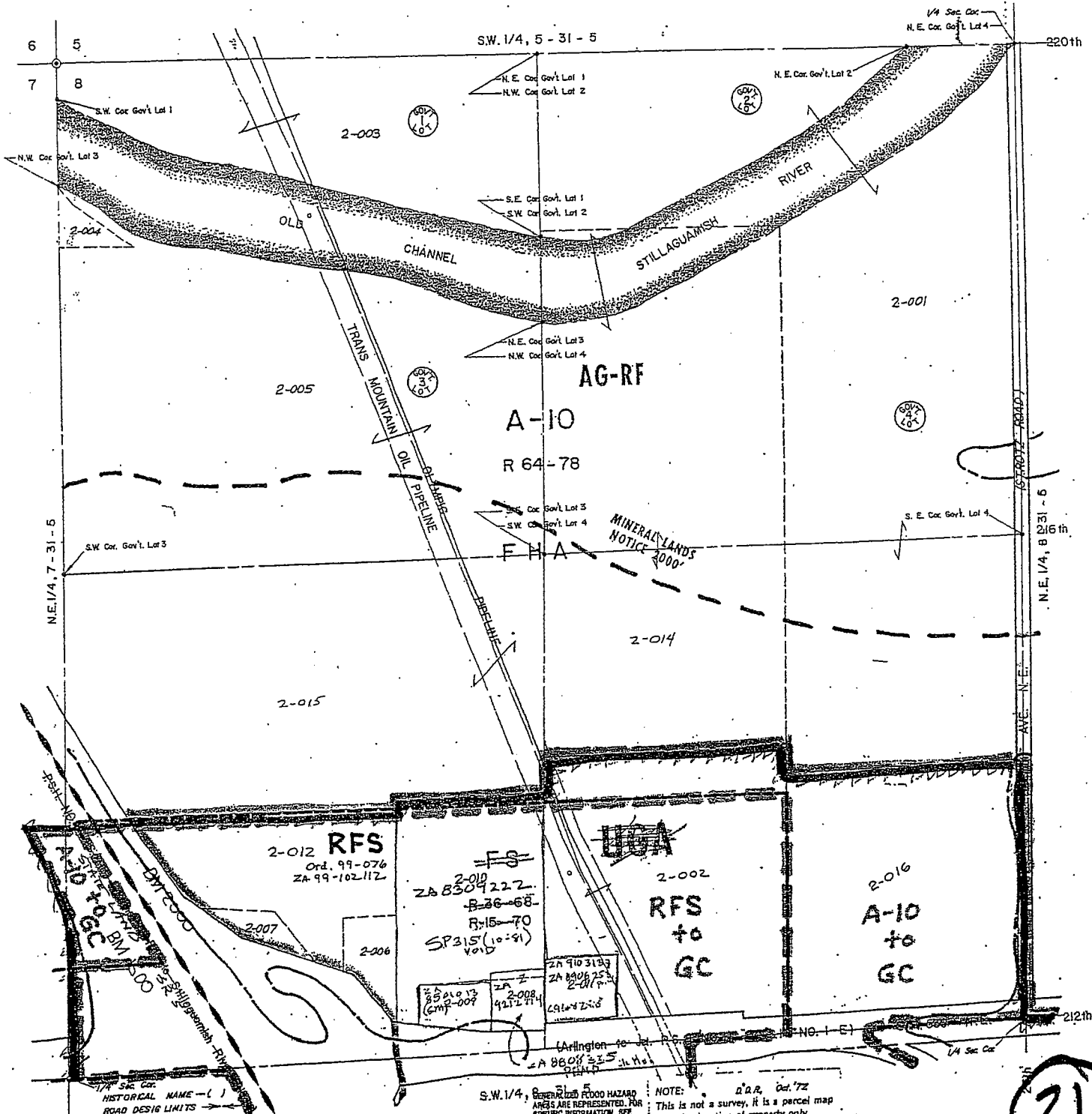
January 2003







1" = 200'



FHA BDRY.  
AG PRESERVATION  
SHORELINE ENVIRONMENT  
COMP PLAN SITE SENSITIVE SECTION

ARLINGTON C.P.  
NORTHWEST C.P.

N.W. 1/4, 8 - 31 - 5

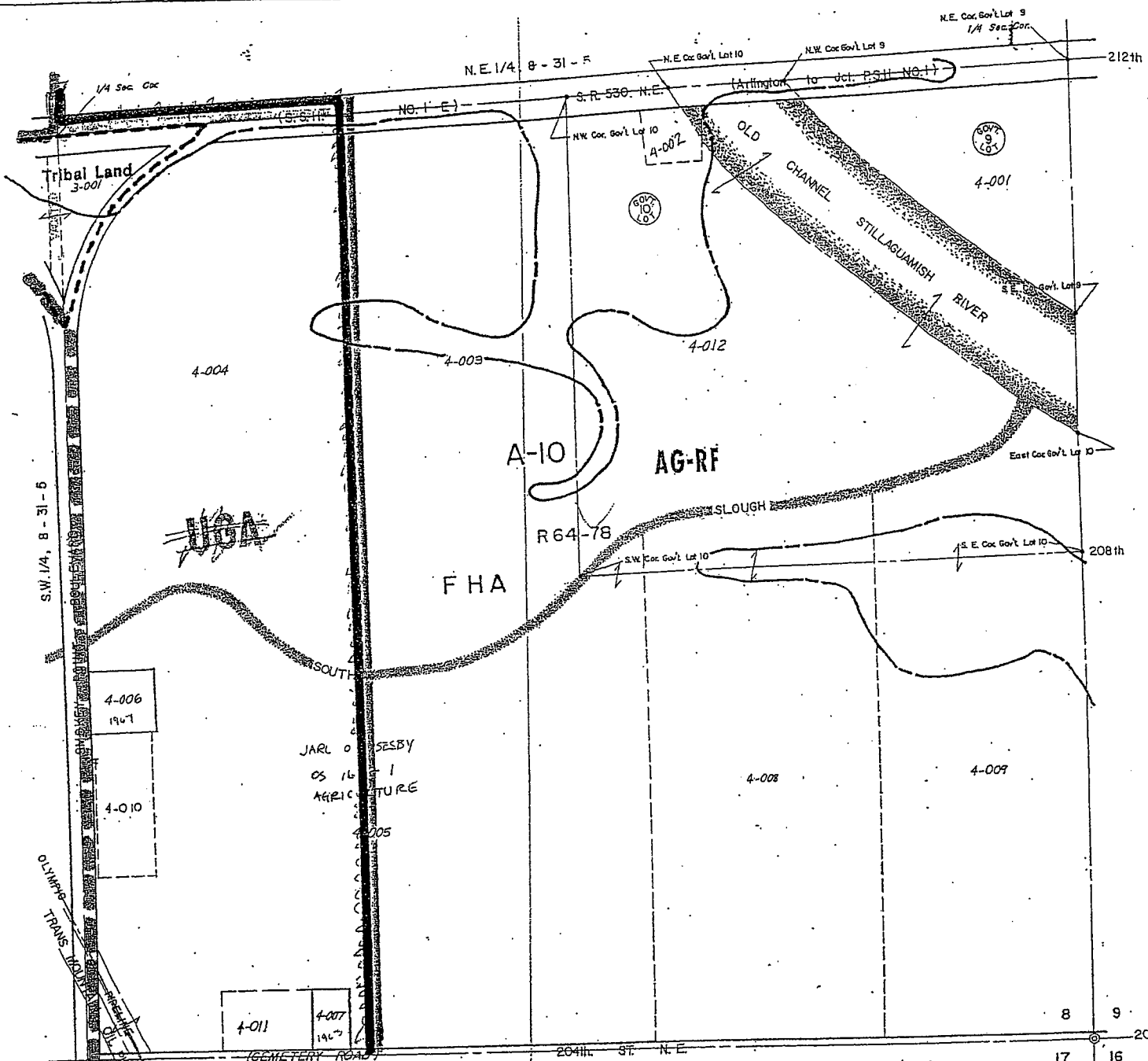
S.W. 1/4, 8-31-5  
REVENUE AND FOOD HAZARD  
AREAS ARE REPRESENTED. FOR  
SPECIFIC INFORMATION, SEE  
STUDY:  
515254-040 B

NOTE: d'a.R. Oct. '72  
This is not a survey, it is a parcel map  
used for location of property only

Scale 1" = 200'

21  
855 MAR 8 1973





FHA BDRY.  
 ARLINGTON C.P.  
 AG PRESERVATION  
 SHORELINE ENVIRONMENT

GENERALIZED FLOOD HAZARD  
 AREAS ARE REPRESENTED FOR  
 SPECIFIC INFORMATION, SEE  
 STUDY:  
 FROM 53534-00403

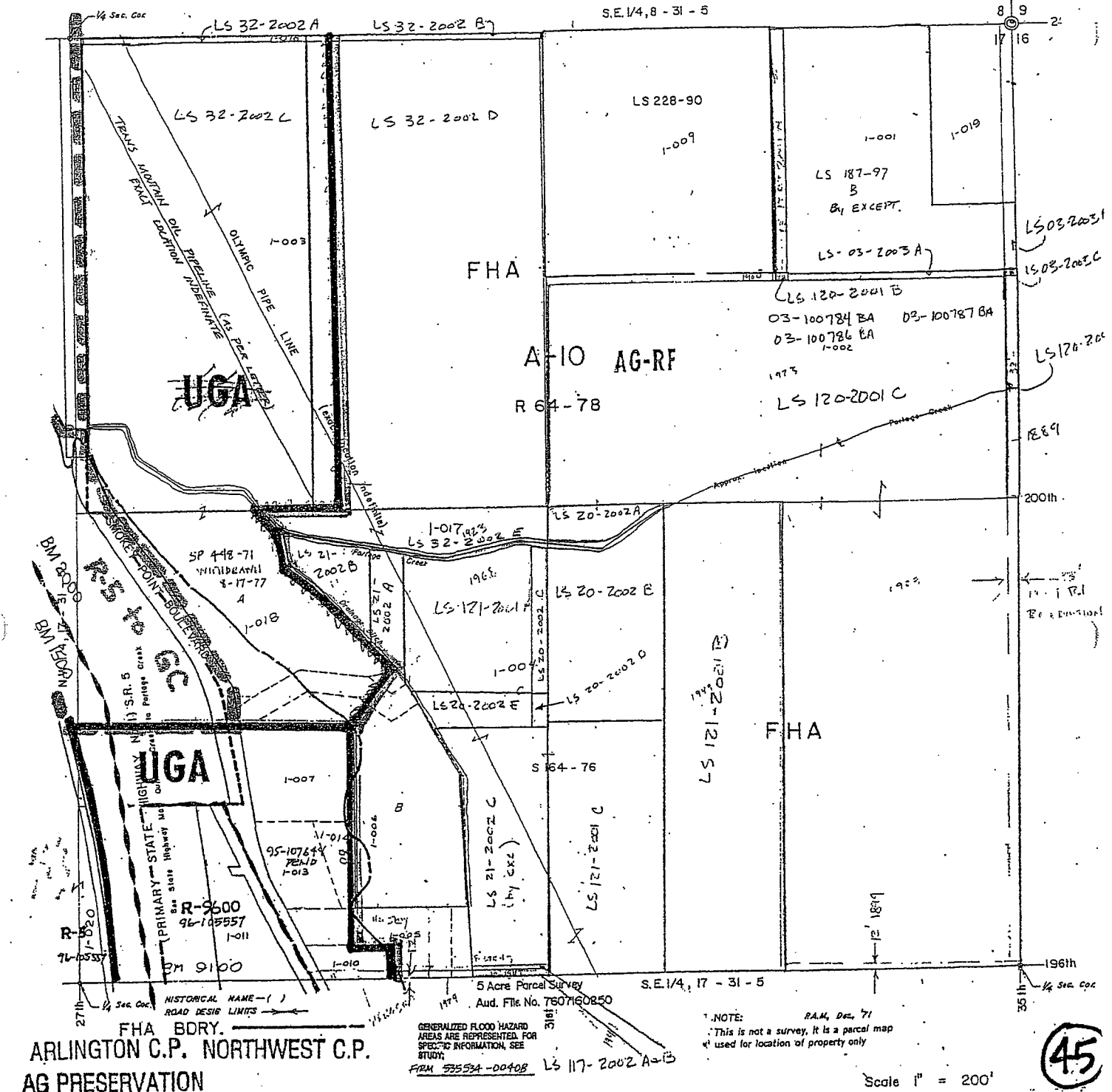
NOTE: 11.2.2, Oct '72  
 This is not a survey, it is a parcel map  
 used for location of property only

Scale 1" = 200'

S.E. 1/4, 8 - 31 - 5



1" = 200'





SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

AMENDED EMERGENCY ORDINANCE NO. 04-057

RELATING TO GROWTH MANAGEMENT; REVISING THE EXISTING URBAN  
GROWTH AREA FOR THE CITY OF ARLINGTON; ADOPTING MAP AMENDMENTS  
TO THE GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN;  
AND ADOPTING COUNTY-INITIATED AREA-WIDE REZONES  
PURSUANT TO CHAPTER 30.74 SCC; AND AMENDING AMENDED  
ORDINANCE 94-125, ORDINANCE 94-120, AND  
EMERGENCY ORDINANCE 01-047

WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA) requires Snohomish County to designate an urban growth area (UGA) within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature (RCW 36.70A.110(1)); and

WHEREAS, the County Council designated a Final UGA for Arlington (Amended Ordinance 94-120) on June 28, 1995, after holding public hearings from April 19, 1994, through January 18, 1995, in conformance with the requirements of the GMA; and

WHEREAS, on June 28, 1995, the County Council approved Amended Ordinance 94-125 which adopted a GMA Comprehensive Plan including a General Policy Plan (GPP) and Future Land Use (FLU) map; and

WHEREAS, the County Council amended the Final UGA for Arlington on July 23, 2001 (Emergency Ordinance 01-047) in conformance with the requirements of the GMA; and

WHEREAS, RCW 36.70A.130 and 36.70A.470 direct counties planning under the GMA to adopt procedures for interested persons to propose amendments and revisions to the comprehensive plan or development regulations; and

WHEREAS, the County Council adopted chapter 30.74 SCC to comply with the requirements of RCW 36.70A.130 and .470 to allow interested persons to propose amendments to the GMA comprehensive plan and/or development regulations; and

WHEREAS, Snohomish County Department of Planning and Development Services (PDS) staff, pursuant to the SCC 30.74.030, reviewed all proposals on the docket and determined that twenty-one of the proposals could be reviewed and analysis could be completed within the time frame of the 2003 final docket review cycle, including the proposal by Dwayne Lane to amend the Arlington UGA boundary; and

WHEREAS, the 2003 final docket – Phase 1 included proposals to amend the GPP FLU map submitted by Jerry Booker, City of Everett, Frank Heath, NORETEP, Snohomish County Department of Public Works, Dwayne Lane, Eddie Bauer, and Wellington Morris; and

WHEREAS, pursuant to Chapter 30.74 SCC, PDS completed final review and evaluation of the 2003 final docket – Phase 1, including rezones to implement proposals to amend the GPP FLU map, and forwarded a recommendation to the Snohomish County Planning Commission; and

WHEREAS, the Planning Commission held hearings on the Dwayne Lane proposal including the proposal to amend UGA boundaries, on February 25 and March 4, 2003, and forwarded a recommendation to the County Council; and

WHEREAS, the County Council held a public hearing on July 9, 2003, continued to July 30, August 13, and September 10, 2003, to consider the entire record and hear public testimony on Ordinance 03-063, adopting revisions to the Arlington UGA; and

WHEREAS, the County Council approved Amended Ordinance 03-063 on September 10, 2003; and

WHEREAS, the County Executive vetoed Amended Ordinance 03-063 on September 26, 2003; and

WHEREAS, the County Council overrode the veto by a vote of 4-1 and adopted Amended Ordinance 03-063 on October 22, 2003; and

WHEREAS, 1000 Friends of Washington, the Washington Department of Community, Trade and Economic Development, and The Stillaguamish Flood Control District appealed Amended Ordinance 03-063 to the Central Puget Sound Growth Management Hearings Board (CPSGMHB) in Case No. 03-3-0019c; and

WHEREAS, the CPSGMHB issued its Final Decision and Order on March 22, 2004, finding that the County's action did not comply with the GMA and invalidating Amended Ordinance 03-063, and setting a deadline of May 24, 2004, for the County to take legislative action to comply with the Final Decision and Order; and

WHEREAS, Section 6 of Amended Ordinance 03-063 contained a severability clause that provided "if any provision of this ordinance is held invalid or unconstitutional, then the provision in effect prior to the effective date of this ordinance shall be in full force and effect for that individual provision as if this ordinance had never been adopted"; and

WHEREAS, the County, the City of Arlington, and the proponent Dwayne Lane appealed the CPSGMHB's Final Decision and Order to Snohomish County Superior Court; and

WHEREAS, the County wishes to comply with the CPSGMHB's Final Decision and Order in a manner that will make its Superior Court appeal unnecessary; and

WHEREAS, the County has received a new analysis supporting the expansion of the Arlington UGA boundaries to include large parcels that have high visibility for commercial use and that will provide additional employment capacity; and

WHEREAS, the County has considered reasonable measures as they relate to large commercial properties that have high visibility and found none applicable; and

WHEREAS, the County Council held a public hearing on May 19, 2004, continued to May 24, 2004, to consider the entire record and hear public testimony on Emergency Ordinance 04-057, adopting revisions to the Arlington UGA; and

WHEREAS, pursuant to Section 30.73.090 of the Snohomish County Code, the County Council finds that the adoption of this ordinance is necessary for the immediate preservation of public peace and safety, and for the support of county government and its existing public institutions; and

NOW, THEREFORE, BE IT ORDAINED:

**Section 1:** The County Council makes the following findings of fact and conclusions:

- A. The County Council hereby adopts and incorporates by reference the findings and conclusions adopted and the legislative records developed in adopting Amended Ordinance 94-120, Amended Ordinance 94-125, Ordinance 97-076, and Emergency Ordinance 01-047.
- B. The proposal by Dwayne Lane to amend the FLU map of the GPP to expand the Arlington UGA to include 110.5 acres to be redesignated from Riverway Commercial Farmland and Rural Freeway Service to Urban Commercial and rezone 110.5 acres from Rural Freeway Service and Agriculture-10 Acres to General Commercial more closely meets the policies of the GPP than the existing plan designation based on the planning commission's following findings of fact and conclusions:
  1. When Dwayne Lane purchased the subject property, the General Policy Plan designation was Urban Commercial.

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  8. Snohomish County is growing rapidly and it is inevitable that sites like Island Crossing will be converted from agricultural uses to commercial uses.
  9. The Commission has concerns about the history of floods in this area and the associated impacts. However, the Commission believes that the impacts can be mitigated as is clearly shown in the DSEIS.
  10. The Commission also has concerns about traffic impacts at Island Crossing as a result of future urban development. The Commission believes that the impacts can be mitigated. The DSEIS shows that traffic impacts can be fully mitigated.
- C. The proposed expansion to the Arlington UGA is consistent with GPP Policies LU 1.A.3 and LU 2.C.3, which require that new development within UGAs are provided with adequate infrastructure and services, including sanitary sewers.
- D. The County has received a new analysis prepared by the Higa Burkholder Associates, LLC, ("Buildable Lands Report 2003 Update, City of Arlington UGA", County Council Exhibit 12) that analyzes commercial and industrial land capacity in

the Arlington UGA, and that also analyzes the availability of large parcels of commercial or industrial lands that have high visibility for commercial uses. This analysis shows a deficiency of parcels or aggregations of parcels of 20 acres or greater within the Arlington UGA that have high visibility for commercial uses, and that have traffic access to Interstate 5. This analysis also includes a refined analysis of employment capacity in the Arlington UGA, and identifies and corrects certain errors regarding parcel potential for development that were contained within the County's Final Buildable Lands Report, adopted by Motion 03-080 in January 2003. The City of Arlington has adopted this report in their Resolution 679 of May 17, 2004. See Exhibit 13. Part IV(A) of Exhibit 12 shows a deficiency of parcels or aggregations of parcels of 20 acres or greater within the Arlington UGA that have high visibility for commercial uses, and that have traffic access to Interstate 5. Part IV(B) of Exhibit 12 argues that the Arlington UGA has possibly consumed 50% or more of the employment land it had available in 1990. The Snohomish County Department of Planning and Community Development has expressed discomfort with the reliability of the employment data upon which the analysis of Part IV(B) is based. Therefore the County Council adopts the report of Exhibit 12 pursuant to UG-14(d) and RCW 36.70A.110, except for the employment data used in Part IV(B) thereof and the conclusions that depend upon this data, and relies upon this adopted analysis in the formulation of its findings and conclusions herein. From this analysis the Council concludes the Arlington UGA experiences a deficiency of larger parcels within that UGA to accommodate the remaining commercial or industrial growth projected for that UGA

- E. The proposed expansion of the Arlington UGA is consistent with County-wide Planning Policy UG-14.d.4, which provides for UGA expansion "to include additional commercial or industrial land if the expansion is based on an assessment that concludes there is a deficiency of larger parcels within that UGA to accommodate the remaining commercial or industrial growth projected for that UGA" and which also takes into account characteristics relevant to the assessment of the adequacy of the remaining commercial or industrial land base.
- F. The proposed expansion of the Arlington UGA is consistent with GPP Policy LU 1.A.9, which provides for UGA expansion "to include additional commercial or industrial land capacity if the expansion is based on an assessment that concludes there is a deficiency of larger parcels within that UGA to accommodate the remaining commercial or industrial growth projected for that UGA" and which also takes into account characteristics relevant to the assessment of the adequacy of the remaining commercial or industrial land base.
- G. The County Council has considered reasonable measures adopted as an appendix to the County-wide Planning Policies and has concluded that no reasonable measures could be applied to the Arlington UGA that could be taken to increase

commercial or industrial capacity of larger parcels without expanding the boundaries of the UGA.

H. The proposed area-wide rezone (Exhibit C, Map 7a) is consistent with the following initial criteria for rezone requests in SCC 30.74.040:

1. Where applicable, the proposed rezones are necessary because an amendment to the future land use map of the GPP has also been proposed that meets the initial evaluation criteria listed in SCC 30.74.030.
2. Public facilities and services necessary for development are available or programmed to be provided to the sites of the proposed rezones, consistent with the GMA comprehensive plan or development regulations as determined by applicable service providers.
3. The proposed rezones do not require a concurrent site plan approval because there is an absence of special site conditions and applicable GPP or subarea policies.

I. The proposed area-wide rezone (Exhibit C, Map 7a) is consistent with the GMA comprehensive plan and consistent with the provisions of the GMA.

J. The County Council concludes that the proposed area-wide rezone (Exhibit C, Map 7a) implements the county's GMA comprehensive plan.

K. The County Council concludes that the proposed area-wide rezone (Exhibit C, Map 7a) bears a substantial relationship to the public health, safety and welfare.

L. The proposed UGA amendment is consistent with the following final review and evaluation criteria of SCC 30.74.060:

1. The proposed amendment maintains consistency with other elements of the GMA comprehensive plan;
2. All applicable elements of the GMA comprehensive plan support the proposed amendment;
3. The proposed amendment meets the goals, objectives, and policies of the GMA comprehensive plan as discussed in the specific findings; and
4. The proposed UGA amendment is consistent with the countywide planning policies.

M. The amendment to the GMA comprehensive plan satisfies the procedural and substantive provisions of and is consistent with the GMA.

N. The amendment maintains the GMA comprehensive plan's consistency with the multi-county policies adopted by the Puget Sound Regional Council and with the countywide planning policies for Snohomish County.



- O. Cities have been notified and consulted with regarding proposed amendments that affect UGAs or GPP FLU map designations within UGAs.
- P. There has been early and continuous public participation in the review of the proposed amendments.
- Q. A Draft Supplemental Environmental Impact Statement (DSEIS) was issued on February 19, 2003, for the Dwayne Lane proposal. A Final SEIS, including response to comments on the DSEIS, was prepared following the 30-day comment period and was issued on July 1, 2003. The purpose of the SEIS was to analyze potential significant adverse environmental impacts of the proposals and any alternatives that were not previously identified in the two EIS documents and a series of addenda prepared for the Snohomish County GMA Comprehensive Plan – General Policy Plan and Transportation Element between 1994 and 2003.
- R. The County Council finds that the amendments adopted by this ordinance fall within the range of alternatives studied in the SEIS and are within the scope of analysis contained in the SEIS and associated adopted environmental documents and result in no new significant adverse environmental impacts. The SEIS performs the function of keeping the public apprised of the refinement of the original GMA comprehensive plan proposal by adding new information, but does not substantially change the analysis of significant impacts and alternatives analyzed in the existing adopted environmental documents.
- S. The SEPA requirements with respect to this proposed action have been satisfied by these documents.
- T. The County Council held a public hearing on July 9, 2003, continued to July 30, August 13, and September 10, 2003, to consider the Planning Commission's recommendations.
- U. The County Council held a public hearing on May 19, 2004, to consider new information regarding this proposal.
- V. The public was notified of the public hearings held by the Planning Commission and the County Council by means of published legal notices in The (Everett) Herald and local newspapers.
- W. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.

X. Approval of the Island Crossing Interchange Docket Proposal is not precedent for redesignation of Agricultural land in the Stillaguamish Valley. This proposal is approved entirely on its own merits. These include:

- (1) This proposal is supported by the Snohomish County Planning Commission.
- (2) Bringing this land into the Arlington Urban Growth Area is fully supported by the City of Arlington.
- (3) This proposal is supported by the Stillaguamish Tribe.
- (4) This land is located at an I-5 interchange between an interstate highway and a state highway, and is uniquely located for commercial needs of the area.
- (5) This land has unique access to utilities. Redesignation of adjacent properties to the east will not occur because utilities are unavailable to the east.
- (6) This land is already characterized by urban development. Infrastructure already present includes water & sewer and three urban highways: I-5, SR 530, and Smoky Point Boulevard. Commercial establishments already present include one hotel, 4 restaurants, 5 gas stations, a smokeshop and a fireworks retail store, and a methadone treatment facility.
- (7) The 5/19/04 hearing testimony of John Henken shows that the fallow farmland there is not taxed as agricultural land.
- (8) The 5/19/04 hearing testimony of Duke Otter and Orin Barlund shows that there are 22 to 30 existing grandfathered legal lots in the proposal area that are not constrained by the current A-10 zoning and which can be developed at a density at or near urban density.

Y. The land contained within the Island Crossing Interchange Docket Proposal is not agricultural land of long term commercial significance. Although some of the soils may be of a type appropriate for agricultural use, soil type is only one factor among many others in the legal test for agricultural land of long term commercial significance. The County Council has addressed the question as to whether the land is:

"primarily devoted to the commercial production of agricultural products and has long term commercial significance for agricultural production"

and has found that it is not.

At the public hearing, of May 19, 2004, the testimony of Mrs. Roberta Winter amplified on her previous testimony and resubmitted her earlier letter (Exh. 111) as hearing Exhibit 8. Mrs. Winters was very persuasive on this point that she and her husband and family loved their farm and their rural life and made every effort to make the farm prosper, but were unable due to various factors beyond their control, including in no small part the pressure of encroaching urbanization. Since the mid-

1950's, she and her husband had a dairy farm in the very location of the Island Crossing Interchange Docket Proposal site. Locating and then expanding I-5 put them out of the dairy business. They soon discovered that crops generated less revenue than the property taxes. The Winters sold the land because the land could not be profitably farmed.

Council finds that this land cannot be profitably farmed, and is not agricultural land of long term commercial significance.

- Z. The Island Crossing Interchange Docket Proposal site has episodically flooded in the past and will continue to episodically flood in the future, whether or not the proposal is approved, and whether or not the site is developed. The relevant question is not whether the proposal site experiences floods, but rather does the site experience significant adverse flood impacts which cannot be reasonably mitigated.

The Draft Supplemental Environmental Impact Statement (Exh. 22) clearly states, at p. 2-24:

Assuming effective implementation of applicable regulations and recommended mitigation measures, no significant unavoidable adverse surface water quantity or quality impacts would be anticipated associated with the future development of the site.

In addition, Mrs. Roberta Winter testified at the May 19, 2004 hearing that during her years on the farm the property never flooded, except for the 1990 flood, and even that flood never reached her house, was only 2 to 4 inches deep except in the natural drainage areas, and receded as fast as it rose. See Exhibit 8.

- AA. In Exh. 135, applicant of the Island Crossing Interchange Docket Proposal states various development techniques and plans which will be voluntarily used to minimize the prospect of flood impacts. These techniques include the following:

- Excavation to create additional storage.
- Building pads and access roads will only be filled to the 100-year floodplain level.
- Minimize the amount of fill brought on-site.
- Most fill will be excavated onsite.
- Water passage to South Slough and Portage Creek will remain unimpeded.
- Parking lots will be built below Base Flood Elevation.
- Parking lots may be built of permeable surface.
- Impermeable surface will be minimized.

**Section 2.** The County Council bases its findings of facts and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the planning commission and county council.

**Section 3.** The County Council hereby amends Amended Ordinance 94-120 as adopted on June 28, 1995, last amended by Emergency Ordinance 01-047 as adopted on July 23, 2001, to modify Exhibits A and C which were therein incorporated. The County Council hereby adopts two new exhibits for Amended Emergency Ordinance 01-047: (1) Exhibit A, Map 7 ("Proposed Comprehensive Plan Amendment, Dwayne Lane") which is a map that depicts the modified UGA boundary for the Arlington UGA; and (2) Exhibit C which is a county assessor's map that accurately depicts the revised UGA boundary for the Arlington UGA. Exhibits A and C are attached hereto and incorporated herein by this reference. After the effective date of Emergency Ord. 04-057, development in the Island Crossing Interchange Docket Proposal area added to the Arlington UGA by Emergency Ord. 04-057 should be conditioned upon use of the flood protection measures outlined above in finding AA of Section 1, provided such flood protection measures are technically feasible and do not defeat the purpose of the development.

**Section 4.** Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan Future Land Use Map adopted as Map 4 of Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995, and last amended by Ordinance No. 03-001 on January 27, 2003, is amended as depicted in Exhibit A, Map 7 which is attached hereto and incorporated by reference into this ordinance as if set forth in full.

**Section 5.** Based on the foregoing findings and conclusions, the County Council hereby adopts the area-wide rezone as mapped in the following documents which are attached hereto and incorporated by reference into this ordinance as if set forth in full:

- A. Assessor map showing the rezone incorporated herein as Exhibit C; and
- B. Map 7a and incorporated herein as Exhibit B.

**Section 6.** Severability. If any provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remainder of this ordinance. Provided, however, that if any provision of this ordinance is held invalid or unconstitutional, then the provision in effect prior to the effective date of this ordinance shall be in full force and effect for that individual provision as if this ordinance had never been adopted.

PASSED this 24th day of May, 2004.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

John M. Koster  
Council Chair

ATTEST:

Sheila McCallister  
Asst. Clerk of the County Council

- ☐ Approved  
☒ Emergency  
☐ Vetoed

DATE: \_\_\_\_\_, 2004

\_\_\_\_\_  
County Executive

ATTEST: \_\_\_\_\_

Approved as to form only:

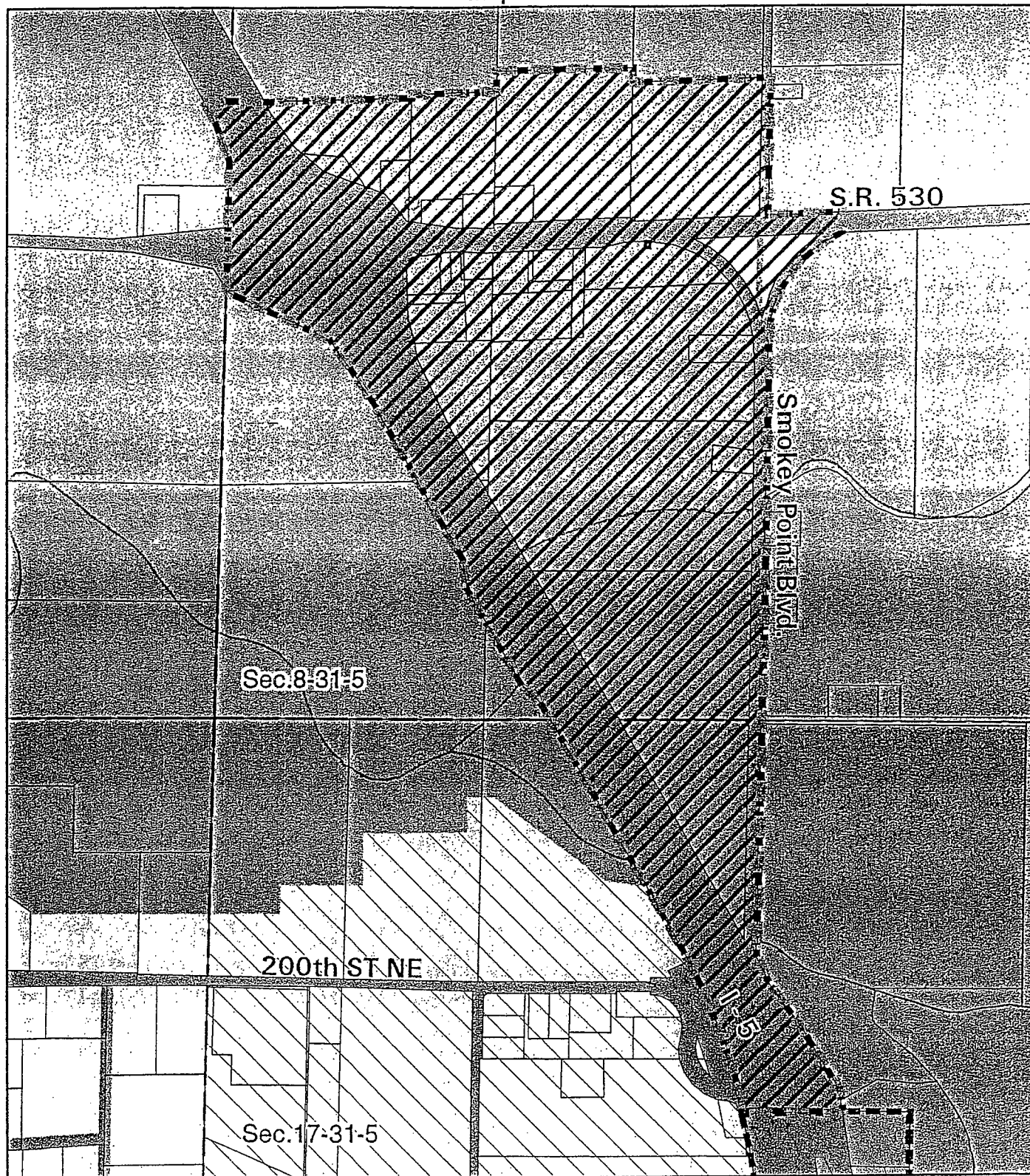
\_\_\_\_\_  
Deputy Prosecuting Attorney

B- 11

Amended Emergency Ordinance No. 04-057 – Adopted May 24, 2004  
Relating to Growth Management; Revising the Urban Growth  
Area for the City of Arlington, adopting map amendments to the  
GMACP and adopting an areawide rezone, etc.

D-1

Map 7



Snohomish County 2003 Docket  
**Proposed Comprehensive Plan Amendment**  
*Dwayne Lane*



January 2006

LEGEND

Existing County Plan Designations

- |   |                             |
|---|-----------------------------|
| Riverway Commercial Farmland                  | Rural Freeway Service       |
| Rural Residential (1 DU/5 Acres Basic)        | Tribal Trust Lands          |
| Urban Low Density Residential (4 - 6 DU/Acre) | Rural/Urban Transition Area |

Proposed Plan Amendment

- B-12**  
 Dwayne Lane:  
 Redesignate Riverway  
 Commercial Farmland,  
 and Rural Freeway Service  
 to  
 Urban Commercial

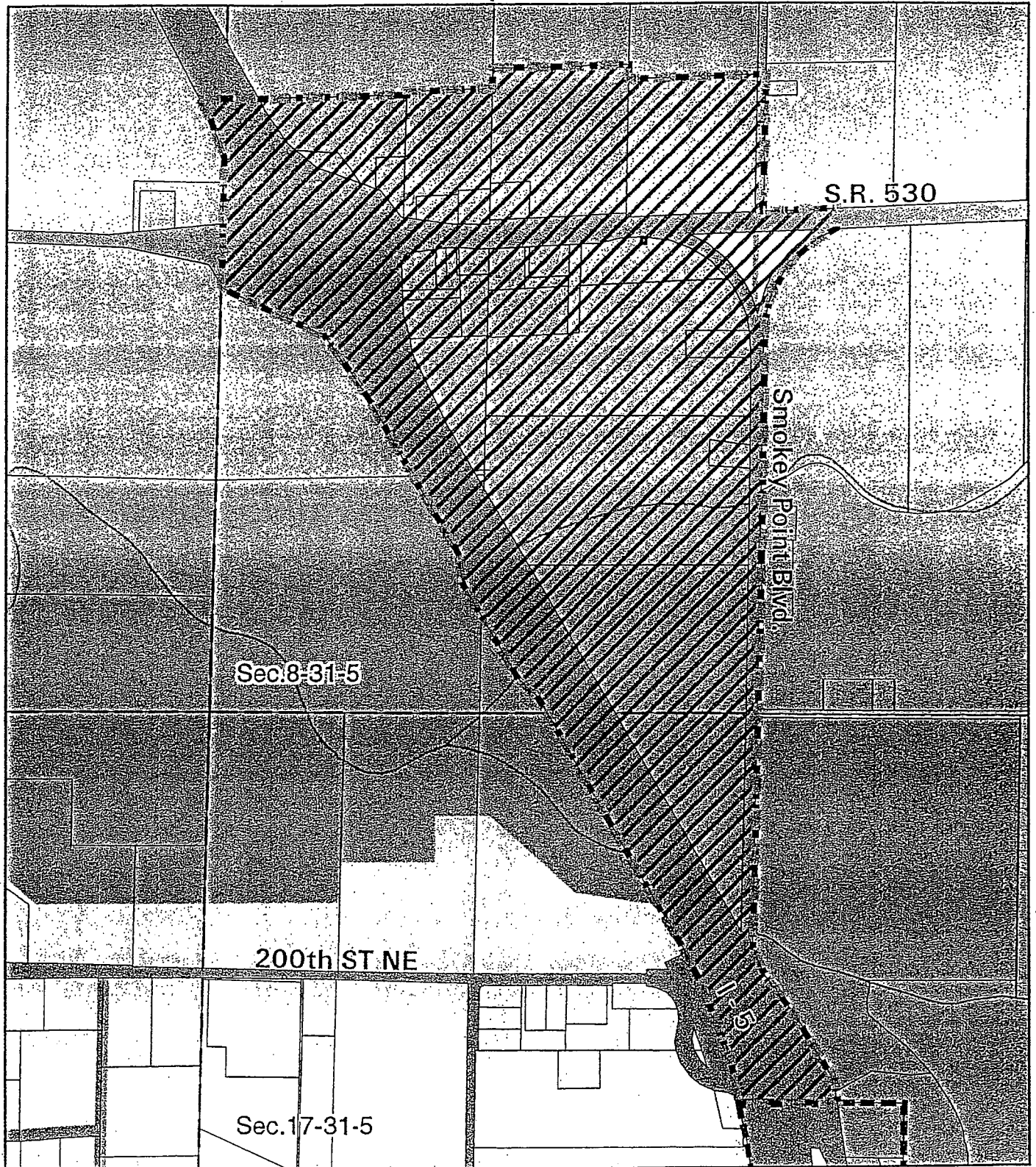
- Incorporated Cities  
 Existing Urban Growth Area Bdy.

This map is a graphic representation derived from the Snohomish County Geographic Information System. It does not represent survey accuracy. Property lines are for illustrative purposes and depict only generalized parcels. Produced by Snohomish County Planning Div., GIS Team:  
 c:\dock\dock03\lane-flu\_map7-050503.aml

Scale in Feet  
 350 700 1050



Map 7a



Snohomish County 2003 Docket  
Implementing Rezone  
**Dwayne Lane**



LEGEND

Existing Zoning

- Agriculture-10 Acre
- Tribal Trust Lands
- Rural-5 Acre
- Rural Freeway Service

Proposed Rezone

- Dwayne Lane:  
Rezone from  
Rural Freeway Service and  
Agriculture-10 Acre to  
General Commercial
- B-13**

- Incorporated Cities
- Existing Urban Growth Area Bdy.

This map is a graphic representation derived from the Snohomish County Geographic Information System. It does not represent survey accuracy. Property lines are for illustrative purposes and depict only generalized parcels. Produced by Snohomish County Planning Div., GIS Team; c:\dock\dock03\lane\_rez.xml

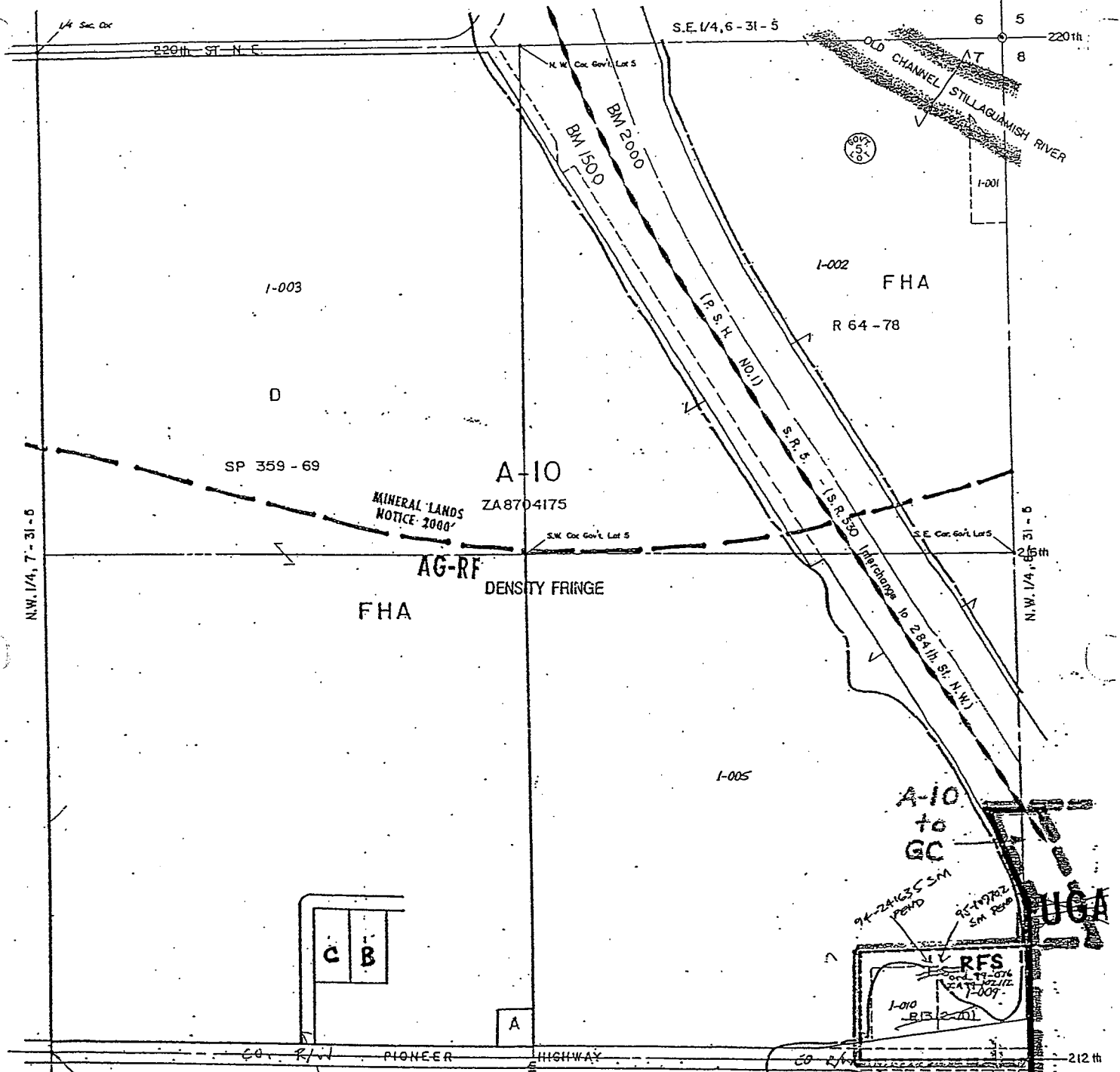
Scale in Feet  
0 350 700 1050

Expand Arlington UGA.



Snohomish County

January 2003



AREINGTON C.P. NORTHWEST C.P.  
AG PRESERVATION  
SHORELINE ENVIRONMENT  
COMP PLAN SITE SENSITIVE SECTION

SE 1/4, 7-31-5  
GENERALIZED FLOOD HAZARD  
AREAS ARE REPRESENTED FOR  
SPECIFIC INFORMATION, SEE  
STUDY:  
E-2-10-138 P. 78  
FIRM 00408

NOTE: D.R.R. Oct 72  
This is not a survey, it is a parcel map  
used for location of property only.

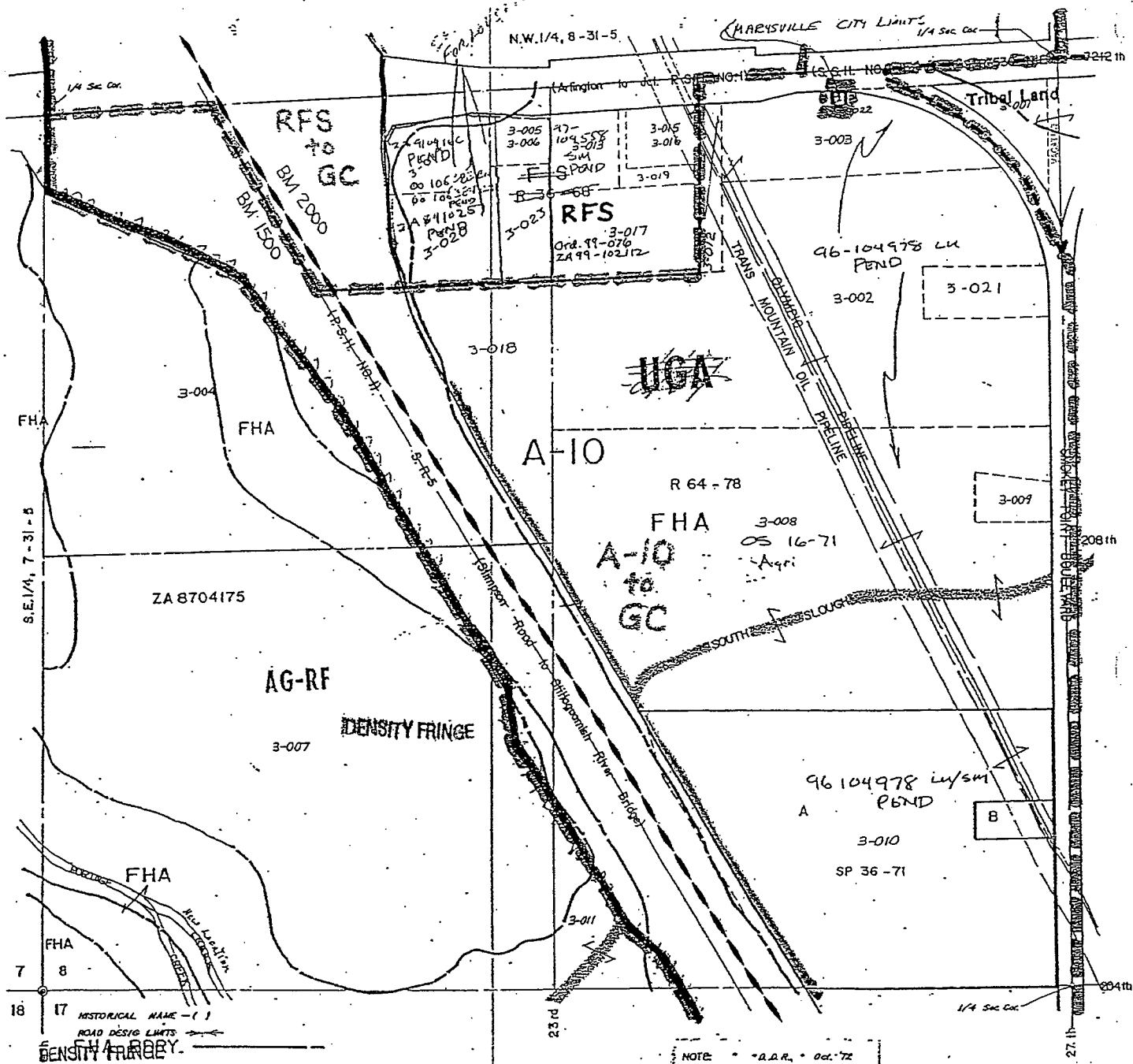
DENSITY FRINGE

N.E. 1/4, 7 - 31 - 5  
THIS 1/4 "ENVIRONMENTALLY SENSITIVE"

MAY 04 1998







ARLINGTON C.P.  
 NORTHWEST C.P.  
 AQ PRESERVATION  
 SHORELINE ENVIRONMENT  
 COMP PLAN SITE SENSITIVE SECTION

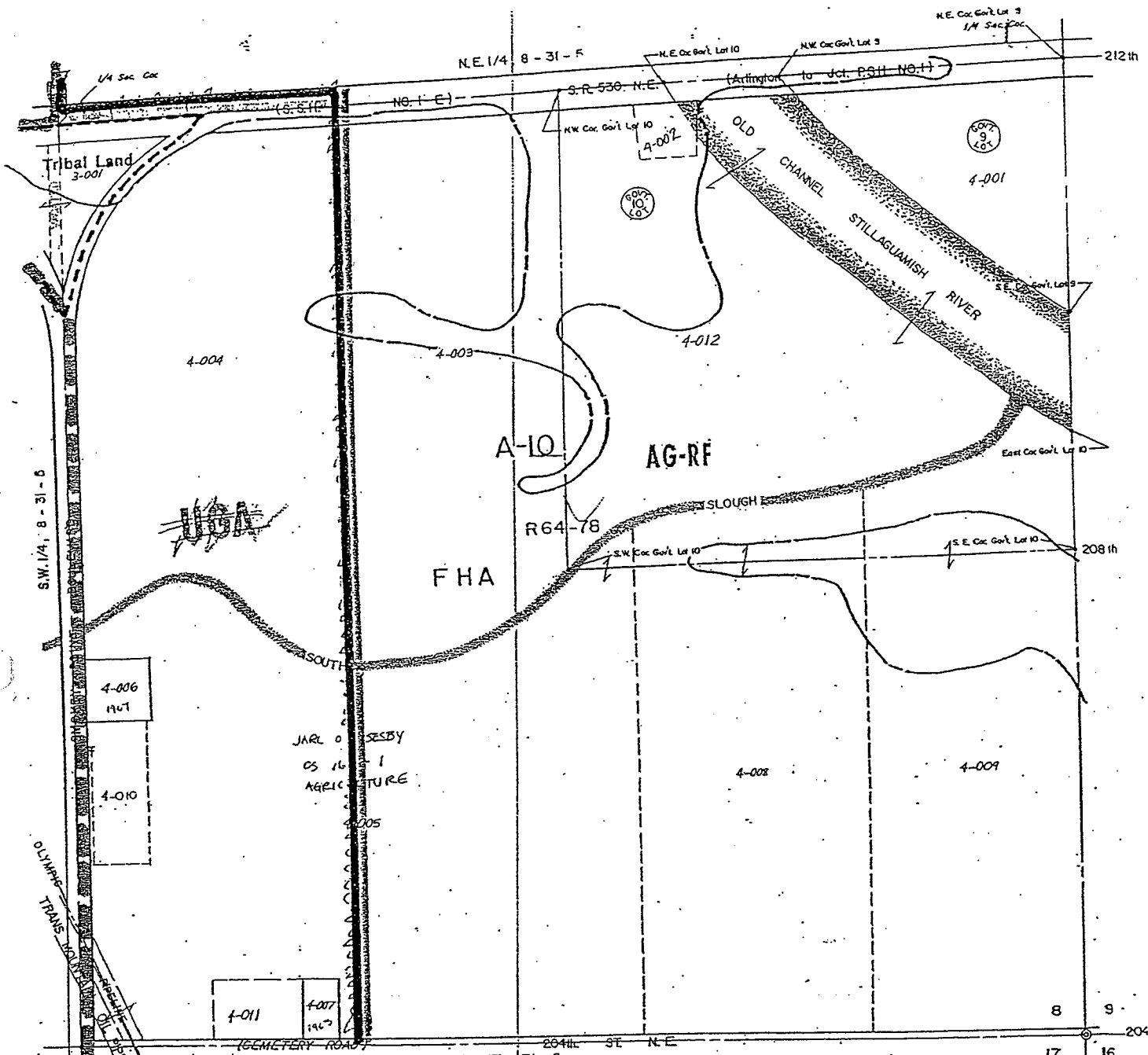
GENERALIZED FLOOD HAZARD  
 AREAS ARE REPRESENTED FOR  
 SPECIFIC INFORMATION, SEE  
 STUDY:  
 535534-00406

S.W. 1/4, 8 - 31 - 5

Scale 1" = 200'

22

MAR 03 8:30



FHA BDRY.  
ARLINGTON C.P.  
AG PRESERVATION  
SHORELINE ENVIRONMENT

GENERALIZED FLOOD HAZARD  
AREAS ARE REPRESENTED. FOR  
SPECIFIC INFORMATION, SEE  
STUDY:  
FROM 53534-00403

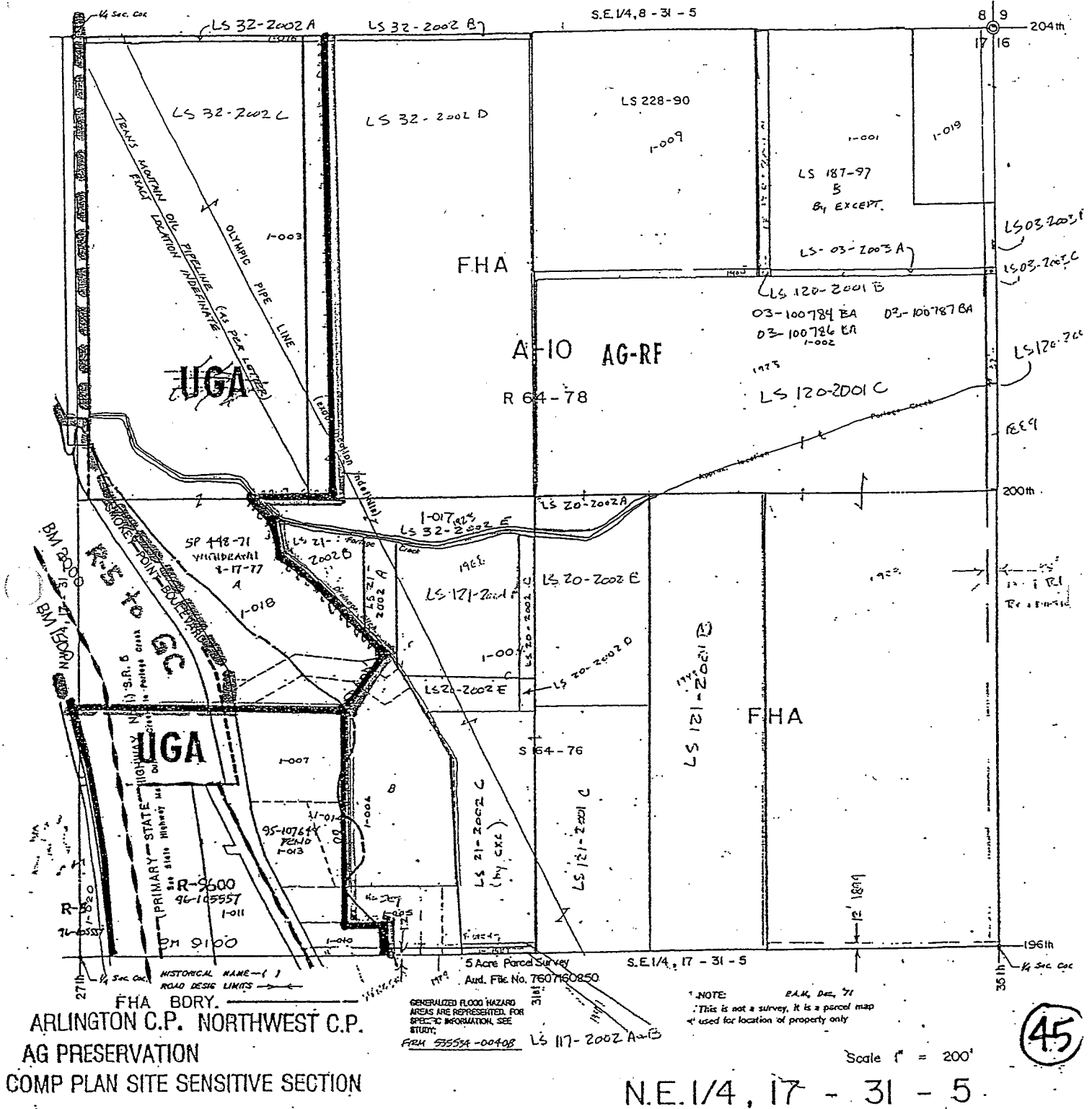
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used for location of property only

Scale 1" = 200'

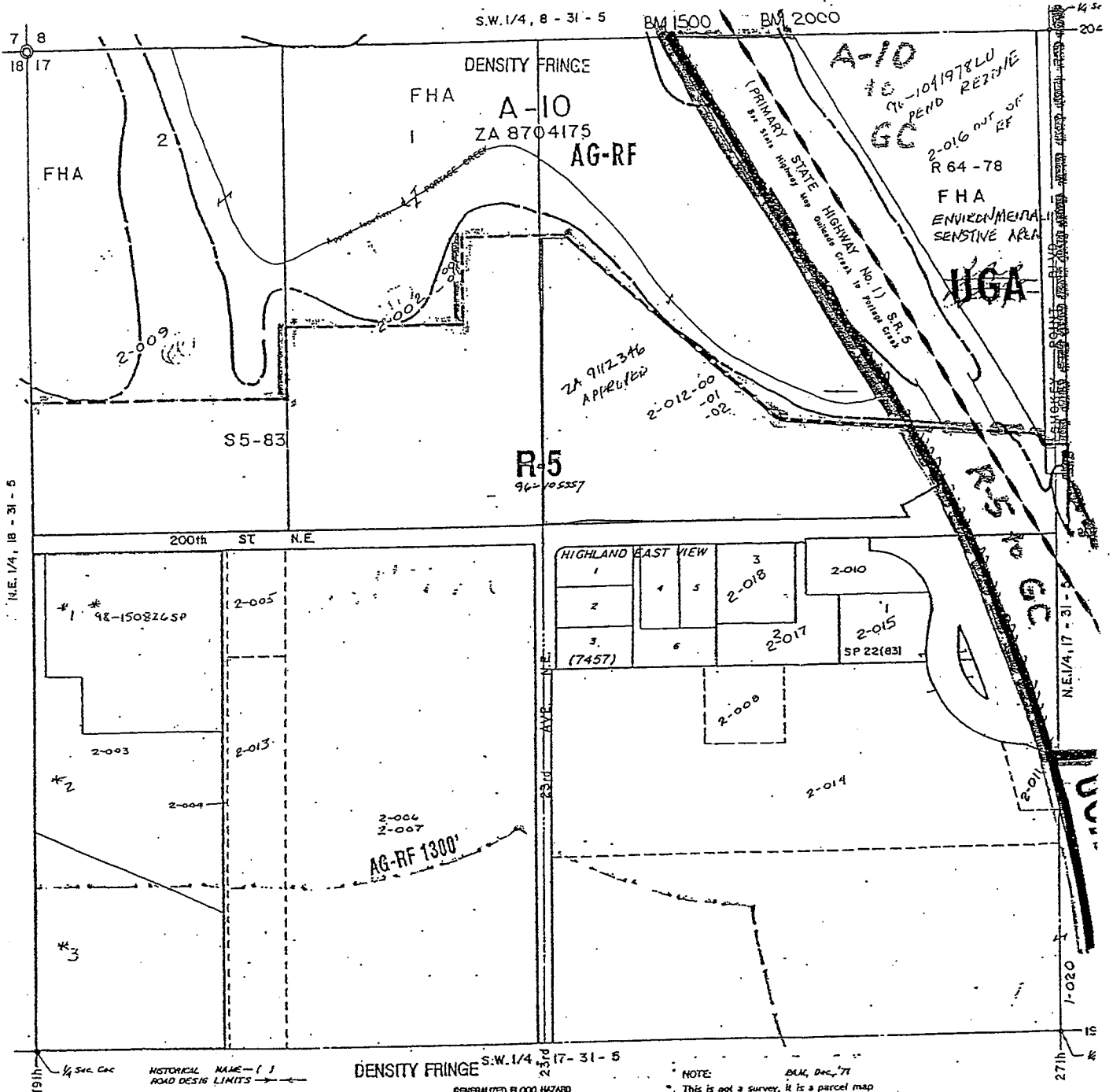
S.E. 1/4, 8 - 31 - 5

27

1" = 200'



1" = 200'



ARLINGTON C.P. NORTHWEST C.P.  
AG PRESERVATION  
SHORELINE ENVIRONMENT  
COMP PLAN SITE SENSITIVE SECTION

DENSITY FRINGE S.W. 1/4 17-31-5  
GENERALIZED FLOOD HAZARD  
AREAS ARE REPRESENTED FOR  
SPECIFIC INFORMATION SEE  
STUDY:  
FIRM 535534-00408

NOTE: BLM, Dec. '71  
This is not a survey, it is a parcel map  
used for location of property only

Scale 1" = 200'

N.W. 1/4, 17 - 31 - 5

MAY 04

West's RCWA 34.05.570

West's Revised Code of Washington Annotated Currentness

Title 34. Administrative Law (Refs & Annos)

↗ Chapter 34.05. Administrative Procedure Act (Refs & Annos)

↗ Part V. Judicial Review and Civil Enforcement

➡ **34.05.570. Judicial review**

(1) Generally. Except to the extent that this chapter or another statute provides otherwise:

(a) The burden of demonstrating the invalidity of agency action is on the party asserting invalidity;

(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken;

(c) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based; and

(d) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of.

(2) Review of rules. (a) A rule may be reviewed by petition for declaratory judgment filed pursuant to this subsection or in the context of any other review proceeding under this section. In an action challenging the validity of a rule, the agency shall be made a party to the proceeding.

(b)(i) The validity of any rule may be determined upon petition for a declaratory judgment addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair the legal rights or privileges of the petitioner. The declaratory judgment order may be entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(ii) From June 10, 2004, until July 1, 2008:

(A) If the petitioner's residence or principal place of business is within the geographical boundaries of the third division of the court of appeals as defined by RCW 2.06.020(3), the petition may be filed in the superior court of Spokane, Yakima, or Thurston county; and

(B) If the petitioner's residence or principal place of business is within the geographical boundaries of district three of the first division of the court of appeals as defined by RCW 2.06.020(1), the petition may be filed in the superior court of Whatcom or Thurston county.

(c) In a proceeding involving review of a rule, the court shall declare the rule invalid only if it finds that: The rule violates constitutional provisions; the rule exceeds the statutory authority of the agency; the rule was adopted without compliance with statutory rule-making procedures; or the rule

is arbitrary and capricious.

(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;

(b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;

(c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;

(d) The agency has erroneously interpreted or applied the law;

(e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;

(f) The agency has not decided all issues requiring resolution by the agency;

(g) A motion for disqualification under RCW 34.05.425 or 34.12.050 was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;

(h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or

(i) The order is arbitrary or capricious.

(4) Review of other agency action.

(a) All agency action not reviewable under subsection (2) or (3) of this section shall be reviewed under this subsection.

(b) A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to RCW 34.05.514, seeking an order pursuant to this subsection requiring performance. Within twenty days after service of the petition for review, the agency shall file and serve an answer to the petition, made in the same manner as an answer to a complaint in a civil action. The court may hear evidence, pursuant to RCW 34.05.562, on material issues of fact raised by the petition and answer.

(c) Relief for persons aggrieved by the performance of an agency action, including the exercise of discretion, or an action under (b) of this subsection can be granted only if the court determines that the action is:

(i) Unconstitutional;

(ii) Outside the statutory authority of the agency or the authority conferred by a provision of law;

(iii) Arbitrary or capricious; or

(iv) Taken by persons who were not properly constituted as agency officials lawfully entitled to take such action.



West's RCWA 36.70A.020

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.020. Planning goals**

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

- (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- (2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- (3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- (5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- (6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.
- (7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
- (8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
- (9) Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

West's RCWA 36.70A.030

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.030. Definitions**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.
- (2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by \*RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.
- (3) "City" means any city or town, including a code city.
- (4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.
- (5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.
- (6) "Department" means the department of community, trade, and economic development.
- (7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.
- (8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under \*RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and

services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Recreational land" means land so designated under \*\*RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(15) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(17) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(18) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(19) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(20) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(21) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

West's RCWA 36.70A.040

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs &amp; Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs &amp; Annos)

**36.70A.040. Who must plan--Summary of requirements--Development regulations must implement comprehensive plans**

(1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section. For the purposes of this subsection, a county not currently planning under this chapter is not required to include in its population count those persons confined in a correctional facility under the jurisdiction of the department of corrections that is located in the county.

Once a county meets either of these sets of criteria, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted

its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.

(7) Cities and counties planning under this chapter must amend the transportation element of the comprehensive plan to be in compliance with this chapter and chapter 47.80 RCW no later than December 31, 2000.

West's RCWA 36.70A.060

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.060. Natural resource lands and critical areas--Development regulations**

(1)(a) Except as provided in \*RCW 36.70A.1701, each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

(b) Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.



West's RCWA 36.70A.110

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.110. Comprehensive plans--Urban growth areas**

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(6) Each county shall include designations of urban growth areas in its comprehensive plan.

(7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

West's RCWA 36.70A.170

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.170. Natural resource lands and critical areas--Designations**

(1) On or before September 1, 1991, each county, and each city, shall designate where appropriate:

(a) Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;

(b) Forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;

(c) Mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and

(d) Critical areas.

(2) In making the designations required by this section, counties and cities shall consider the guidelines established pursuant to RCW 36.70A.050.

West's RCWA 36.70A.210

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

\* Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

➡ **36.70A.210. County-wide planning policies**

(1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "county-wide planning policy" is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

(2) The legislative authority of a county that plans under RCW 36.70A.040 shall adopt a county-wide planning policy in cooperation with the cities located in whole or in part within the county as follows:

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040 shall convene a meeting with representatives of each city located within the county for the purpose of establishing a collaborative process that will provide a framework for the adoption of a county-wide planning policy. In other counties that are required or choose to plan under RCW 36.70A.040, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management.

(b) The process and framework for adoption of a county-wide planning policy specified in (a) of this subsection shall determine the manner in which the county and the cities agree to all procedures and provisions including but not limited to desired planning policies, deadlines, ratification of final agreements and demonstration thereof, and financing, if any, of all activities associated therewith.

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340.

(d) If there is no agreement by October 1, 1991, in a county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or if there is no agreement within one hundred twenty days of the date the county adopted its resolution of intention or was certified by the office of financial management in any other county that is required or chooses to plan under RCW 36.70A.040, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the department of community, trade, and economic development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction.

(e) No later than July 1, 1992, the legislative authority of each county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or no later than fourteen months after the date the county adopted its resolution of intention or was certified by the office of financial management the

county legislative authority of any other county that is required or chooses to plan under RCW 36.70A.040, shall adopt a county-wide planning policy according to the process provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed county-wide planning policy.

(3) A county-wide planning policy shall at a minimum, address the following:

(a) Policies to implement RCW 36.70A.110;

(b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;

(c) Policies for siting public capital facilities of a county-wide or statewide nature, including transportation facilities of statewide significance as defined in RCW 47.06.140;

(d) Policies for county-wide transportation facilities and strategies;

(e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

(f) Policies for joint county and city planning within urban growth areas;

(g) Policies for county-wide economic development and employment; and

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the county-wide planning policy adoption process. Adopted county-wide planning policies shall be adhered to by state agencies.

(5) Failure to adopt a county-wide planning policy that meets the requirements of this section may result in the imposition of a sanction or sanctions on a county or city within the county, as specified in RCW 36.70A.340. In imposing a sanction or sanctions, the governor shall specify the reasons for failure to adopt a county-wide planning policy in order that any imposed sanction or sanctions are fairly and equitably related to the failure to adopt a county-wide planning policy.

(6) Cities and the governor may appeal an adopted county-wide planning policy to the growth management hearings board within sixty days of the adoption of the county-wide planning policy.

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region.

West's RCWA 36.70A.215

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.215. Review and evaluation program**

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, county-wide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection every five years as provided in subsection (3) of this section. The first evaluation shall be completed not later than September 1, 2002. The county and its cities may establish in the county-wide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the county-wide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the county-wide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the county-wide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population

allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the county-wide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to county-wide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the county-wide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

West's RCWA 36.70A.280

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.280. Matters subject to board review**

(1) A growth management hearings board shall hear and determine only those petitions alleging either:

(a) That a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.



West's RCWA 36.70A.302

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.302. Determination of invalidity--Vesting of development permits-- Interim controls**

(1) A board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

West's RCWA 36.70A.320

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.320. Presumption of validity--Burden of proof--Plans and regulations**

(1) Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

West's RCWA 36.70A.470

West's Revised Code of Washington Annotated Currentness

Title 36. Counties (Refs & Annos)

Chapter 36.70A. Growth Management--Planning by Selected Counties and Cities (Refs & Annos)

**36.70A.470. Project review--Amendment suggestion procedure--Definitions**

(1) Project review, which shall be conducted pursuant to the provisions of chapter 36.70B RCW, shall be used to make individual project decisions, not land use planning decisions. If, during project review, a county or city planning under RCW 36.70A.040 identifies deficiencies in plans or regulations:

(a) The permitting process shall not be used as a comprehensive planning process;

(b) Project review shall continue; and

(c) The identified deficiencies shall be docketed for possible future plan or development regulation amendments.

(2) Each county and city planning under RCW 36.70A.040 shall include in its development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

(3) For purposes of this section, a deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation addresses a project's probable specific adverse environmental impacts which the permitting agency could mitigate in the normal project review process.

(4) For purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan or development regulations in a manner that will ensure such suggested changes will be considered by the county or city and will be available for review by the public.

Wash. Admin. Code 365-195-200

WASHINGTON ADMINISTRATIVE CODE  
TITLE 365. COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF  
(COMMUNITY DEVELOPMENT)  
CHAPTER 365-195. GROWTH MANAGEMENT ACT--PROCEDURAL CRITERIA FOR ADOPTING  
COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS  
PART TWO DEFINITIONS

Current with amendments adopted through May 2, 2007.  
365-195-200. Statutory definitions.

For the convenience of persons using these criteria the definitions contained in RCW 36.70A.030 are set forth below:

- (1) 'Adopt a comprehensive land use plan' means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.
- (2) 'Agricultural land' means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock and that has long-term commercial significance for agricultural production.
- (3) 'City' means any city or town, including a code city.
- (4) 'Comprehensive land use plan,' 'comprehensive plan,' or 'plan' means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.
- (5) 'Critical areas' include the following areas and ecosystems:
  - (a) Wetlands;
  - (b) Areas with a critical recharging effect on aquifers used for potable water;
  - (c) Fish and wildlife habitat conservation areas;
  - (d) Frequently flooded areas; and
  - (e) Geologically hazardous areas.
- (6) 'Department' means the department of community development.
- (7) 'Development regulations' means any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, subdivision ordinances, and binding site plan ordinances.
- (8) 'Forest land' means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.
- (9) 'Geologically hazardous areas' means areas that because of their susceptibility to erosion, sliding,

earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) 'Long-term commercial significance' includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) 'Minerals' include gravel, sand, and valuable metallic substances.

(12) 'Public facilities' include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) 'Public services' include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) 'Urban growth' refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. 'Characterized by urban growth' refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(15) 'Urban growth area' means those areas designated by a county pursuant to RCW 36.70A.110.

(16) 'Urban governmental services' include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

(17) 'Wetland' or 'wetlands' means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

Wash. Admin. Code 365-195-210

WASHINGTON ADMINISTRATIVE CODE  
TITLE 365. COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF  
(COMMUNITY DEVELOPMENT)  
CHAPTER 365-195. GROWTH MANAGEMENT ACT--PROCEDURAL CRITERIA FOR ADOPTING  
COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS  
PART TWO DEFINITIONS

Current with amendments adopted through May 2, 2007.  
365-195-210. Definitions of terms as used in this chapter.

The following are definitions of terms which are not defined in RCW 36.70A.030 but which are defined here for purposes of these procedural criteria. The department recommends that counties and cities planning under the act adopt these definitions in their plans:

'Act' means the Growth Management Act as enacted in chapter 17, Laws of 1990 1st ex. sess., and chapter 32, Laws of 1991 sp. sess., state of Washington.

'Adequate public facilities' means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

'Affordable housing' means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

'Available public facilities' means that facilities or services are in place or that a financial commitment is in place to provide the facilities or services within a specified time. In the case of transportation, the specified time is six years from the time of development.

'Concurrency' means that adequate public facilities are available when the impacts of development occur. This definition includes the two concepts of 'adequate public facilities' and of 'available public facilities' as defined above.

'Consistency' means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

'Coordination' means consultation and cooperation among jurisdictions.

'Contiguous development' means development of areas immediately adjacent to one another.

'Demand management strategies,' or 'transportation demand management strategies (TDM)' means strategies aimed at changing travel behavior rather than at expanding the transportation network to meet travel demand. Such strategies can include the promotion of work hour changes, ride-sharing options, parking policies, telecommuting.

'Domestic water system' means any system providing a supply of potable water which is deemed adequate pursuant to RCW 19.27.097 for the intended use of a development.

'Financial commitment' means that sources of public or private funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development

and that there is reasonable assurance that such funds will be timely put to that end.

'Growth Management Act' - see definition of 'Act.'

'Level of service' means an established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need.

'Master planned resort' means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

'New fully contained community' is a development proposed for location outside of the existing designated urban growth areas which is characterized by urban densities, uses, and services, and meets the criteria of RCW 36.70A.350.

'Planning period' means the twenty-year period following the adoption of a comprehensive plan or such longer period as may have been selected as the initial planning horizon by the planning jurisdiction.

'Public service obligations' means obligations imposed by law on utilities to furnish facilities and supply service to all who may apply for and be reasonably entitled to service.

'Regional transportation plan' means the transportation plan for the regionally designated transportation system which is produced by the regional transportation planning organization.

'Regional transportation planning organization (RTPO)' means the voluntary organization conforming to RCW 47.80.020, consisting of local governments within a region containing one or more counties which have common transportation interests.

'Rural lands' means all lands which are not within an urban growth area and are not designated as natural resource lands having long term commercial significance for production of agricultural products, timber, or the extraction of minerals.

'Sanitary sewer systems' means all facilities, including approved on-site disposal facilities, used in the collection, transmission, storage, treatment, or discharge of any waterborne waste, whether domestic in origin or a combination of domestic, commercial, or industrial waste.

'Solid waste handling facility' means any facility for the transfer or ultimate disposal of solid waste, including land fills and municipal incinerators.

'Transportation facilities' includes capital facilities related to air, water, or land transportation.

'Transportation level of service standards' means a measure which describes the operational condition of the travel stream and acceptable adequacy requirements. Such standards may be expressed in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety.

'Transportation system management (TSM)' means the use of low capital expenditures to increase the capacity of the transportation system. TSM strategies include but are not limited to signalization, channelization, and bus turn-outs.

'Utilities' or 'public utilities' means enterprises or facilities serving the public by means of an integrated system of collection, transmission, distribution, and processing facilities through more or less permanent physical connections between the plant of the serving entity and the premises of the customer. Included are systems for the delivery of natural gas, electricity, telecommunications services, and water, and for the disposal of sewage.



'Visioning' means a process of citizen involvement to determine values and ideals for the future of a community and to transform those values and ideals into manageable and feasible community goals.

Wash. Admin. Code 365-195-335

WASHINGTON ADMINISTRATIVE CODE  
TITLE 365. COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF  
(COMMUNITY DEVELOPMENT)  
CHAPTER 365-195. GROWTH MANAGEMENT ACT--PROCEDURAL CRITERIA FOR ADOPTING  
COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS  
PART THREE FEATURES OF THE COMPREHENSIVE PLAN

Current with amendments adopted through May 2, 2007.  
365-195-335. Urban growth areas.

**(1) Requirements.**

- (a) Each county planning under the Act shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature.
- (b) Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city.
- (c) An urban growth area may include territory that is located outside a city if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.
- (d) Based upon the population growth management planning population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas.
- (e) Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development.
- (f) Urban growth should be located second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources.
- (g) It is appropriate that urban government services be provided by cities and urban government services should not be provided in rural areas.

**(2) General procedure.**

- (a) The designation process shall include consultation by the county with each city located within its boundaries.
- (b) Each city shall propose the location of an urban growth area.
- (c) The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located.
- (d) If an agreement is not reached with each city located within the urban growth area, the

county shall justify in writing why it so designated an urban growth area.

(3) **Recommendations for meeting requirements.** The following steps are recommended in developing urban growth areas:

(a) County-wide planning policies. In adopting urban growth areas, each county should be guided by the applicable county-wide (and in some cases multicounty) planning policies. To the maximum extent possible, the creation of urban growth areas should result from a cooperative effort among the jurisdictions involved.

(b) General considerations. For all jurisdictions planning under the act, the urban growth area should represent the physical area within which that jurisdiction's vision of urban development can be realized over the next twenty years. The urban growth area should be based on densities selected to promote goals of the act -densities which accommodate urban growth served by adequate public facilities and discourage sprawl.

(c) Development of city proposals. In developing the proposal for its urban growth area, each city should engage in a process of analysis which involves the steps set forth in (d), (e), and (f) of this subsection.

(d) Determination of the amount of land necessary to accommodate likely growth. This process should involve at least:

(i) A forecast of the likely future growth of employment and population in the community, utilizing the twenty-year population projection for the county in conjunction with data on current community population, recent trends in population, and employment in and near the community and assumptions about the likelihood of continuation of such trends. Where available, regional population and employment forecasts should be used.

(ii) Selection of community growth goals with respect to population, commercial and industrial development and residential development.

(iii) Selection of the densities the community seeks to achieve in relation to its growth goals.

(iv) Estimation of the amount of land needed to accommodate the likely level of development at the densities selected.

(v) Identification of the amount of land needed for the public facilities, public services, and utilities necessary to support the likely level of development.

(vi) Identification of the appropriate amount of greenbelt and open space to be preserved or created in connection with the overall growth pattern.

(e) Determination of the geographic area to be encompassed to provide the necessary land. This process should involve at least:

(i) An inventory of lands within existing municipal boundaries which is available for development, including vacant land, partially used land, and land where redevelopment is likely.

(ii) An estimate of lands within existing municipal boundaries which are potentially available for public capital facilities and utilities necessary to support anticipated growth.

(iii) An estimate of lands which should be allocated to greenbelts and open space and lands which should be protected as critical areas.

(iv) If the lands within the existing municipal boundaries are not sufficient to provide the land area necessary to accommodate likely growth, similar inventories and estimates should be

made of lands in adjacent unincorporated territory already characterized by urban growth, if any such territory exists.

(v) The community's proposed urban growth area should encompass a geographic area which matches the amount of land necessary to accommodate likely growth. If there is physically no territory available into which a city might expand, it may need to revise its proposed densities or population levels in order to accommodate growth on its existing land base.

(f) Evaluation of the determination of geographic requirements. The community should perform a check on the realism of the area proposed by evaluating:

(i) The anticipated ability to finance by all means the public facilities, public services, and open space needed in the area over the planning period.

(ii) The effect that confining urban growth within the areas defined is likely to have on the price of property and the impact thereof on the ability of residents of all economic strata to obtain housing they can afford.

(iii) Whether the level of population and economic growth contemplated can be achieved within the capacity of available land and water resources and without environmental degradation.

(iv) The extent to which the plan of the county and of other communities will influence the area needed.

If, as a result of these evaluations, the area appears to have been drawn too small or too large, the city's proposal should be adjusted accordingly.

(g) County actions in adopting urban growth areas. The designation of urban growth areas should ultimately be incorporated into the comprehensive plan of each county that plans under the act. However, every effort should be made to complete the urban growth area designation process earlier, so that the comprehensive plans of both the county and the cities can be completed in reliance upon it. Before completing the designation process, counties should engage in a process which involves the steps set forth in (h) through (j) of this subsection.

(h) The county should determine how much of its twenty-year population projection is to be allocated to rural areas and other areas outside urban growth areas and how much should be allocated to urban growth.

(i) The county should attempt to define urban growth areas so as to accommodate the growth plans of the cities, while recognizing that physical location or existing patterns of service make some unincorporated areas which are characterized by urban growth inappropriate for inclusion in any city's potential growth area. The option of incorporation should be preserved for some unincorporated communities upon the receipt of additional growth.

(j) The total area designated as urban growth area in any county should be sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period, unless some portion of that growth is allocated to a new community reserve established in anticipation of a proposal for one or more new fully contained communities.

(k) Actions which should accompany designation of urban growth areas. Consistent with county-wide planning policies, cities and counties consulting on the designation of urban growth areas should make every effort to address the following as a part of the process:

(i) Establishment of agreements regarding land use regulations and the providing of services in that portion of the urban growth area outside of an existing city into which it is eventually expected to expand.

(ii) Negotiation of agreements for appropriate allocation of financial burdens resulting from the transition of land from county to city jurisdiction.

(iii) Provision for an ongoing collaborative process to assist in implementing county-wide planning policies, resolving regional issues, and adjusting growth boundaries.

(l) Urbanized areas outside of urban growth areas.

(i) New fully contained communities. A county may establish a process, as part of its urban growth area designation, for reviewing proposals to authorize new fully contained communities located outside the initially designated urban growth areas. If such a process is established, the criteria for approval are as set forth in RCW 36.70A.350. The approval procedures shall be adopted as a development regulation. However, such communities may be approved only if a county reserves a portion of the twenty-year population projection for allocation to such communities. When a county establishes a new community reserve it shall reduce the urban growth area accordingly. The approval of an application for a new fully contained community shall have the effect of amending the comprehensive plan to include the new community as an urban growth area.

(ii) Master planned resorts. A county may establish procedures for approving master planned resorts constituting urban growth outside of an urban growth area. Such a resort may be authorized only if the comprehensive plan and development regulations of the county comply with the requirements of RCW 36.70A.360.